

# Michigan Register

Issue No. 14 – 2001 (Published August 15, 2001)



## **GRAPHIC IMAGES IN THE MICHIGAN REGISTER**

### **COVER DRAWING**

#### ***Michigan State Capitol:***

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

### **PAGE GRAPHICS**

#### ***Capitol Dome:***

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

#### ***East Elevation of the Michigan State Capitol:***

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

**Published pursuant to § 24.208 of  
The Michigan Compiled Laws**



**Issue No. 14 — 2001**

(This issue, published August 15, 2001, contains  
documents filed from July 15, 2001 to August 1, 2001)

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**John Engler, Governor**



**Dick Posthumus, Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
  - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
  - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
  - (d) Proposed administrative rules.
  - (e) Notices of public hearings on proposed administrative rules.
  - (f) Administrative rules filed with the secretary of state.
  - (g) Emergency rules filed with the secretary of state.
  - (h) Notice of proposed and adopted agency guidelines.
  - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
  - (j) Attorney general opinions.
  - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
  - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
  - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
  - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

#### **CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

### **CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year. Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: [www.state.mi.us/orr](http://www.state.mi.us/orr)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director  
Office of Regulatory Reform



## 2001 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
2001		
1	January 16, 2001	February 1, 2001
2	February 1, 2001	February 15, 2001
3	February 15, 2001	March 1, 2001
4	March 1, 2001	March 15, 2001
5	March 15, 2001	April 1, 2001
6	April 1, 2001	April 15, 2001
7	April 15, 2001	May 1, 2001
8	May 1, 2001	May 15, 2001
9	May 15, 2001	June 1, 2001
10	June 1, 2001	June 15, 2001
11	June 15, 2001	July 1, 2001
12	July 1, 2001	July 15, 2001
13	July 15, 2001	August 1, 2001
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15	August 15, 2001	September 1, 2001
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18	October 1, 2001	October 15, 2001
19	October 15, 2001	November 1, 2001
20	November 1, 2001	November 15, 2001
21	November 15, 2001	December 1, 2001
22	December 1, 2001	December 15, 2001
23	December 15, 2001	January 1, 2002
24	January 1, 2002	January 15, 2002

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**ADMINISTRATIVE RULES**  
**FILED WITH THE SECRETARY OF STATE**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

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ADMINISTRATIVE RULES

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**PUBLIC SERVICE COMMISSION**

**UNCOLLECTIBLES ALLOWANCE RECOVERY FUNDS**

Filed with the Secretary of State on July 16, 2001.

These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the public service commission by section 4 of 2000 PA 322, section 7 of 1909 PA 106, section 5 of 1919 PA 419, sections 4 and 6 of 1939 PA 3, and sections 3, 9, and 231 of 1965 PA 380, MCL 285.304, 460.557, 460.55, 460.4, 460.6, 16.103, 16.109, and 16.331)

**PART 1. GENERAL PROVISIONS**

**R 460.2601 Application of rules.**

Rule 1. These rules apply to every electric and gas utility that is subject to the jurisdiction of the public service commission.

**R 460.2602 Definitions.**

Rule 2. As used in these rules:

- (a) "Commission" means the Michigan public service commission.
- (b) "Cooperative electric utility" means an electric utility organized as a cooperative corporation under 1931 PA 327, MCL 450.1 et seq.
- (c) "Fund" means the uncollectibles allowance recovery fund.
- (d) "Utility" means a person, firm, corporation, cooperative, association, or other agency which is subject to the jurisdiction of the commission and which distributes and sells electricity or natural gas to the public for residential use.

**PART 2. UNCOLLECTIBLES ALLOWANCE RECOVERY FUND**

**R 460.2621 Uncollectibles allowance recovery fund.**

Rule 11. A utility shall establish and administer an uncollectibles allowance recovery fund.

**R 460.2622 Annual deposits.**

Rule 12. A utility shall annually deposit into its fund the difference between the uncollectible provision as recorded in the utility's financial records for 1999, less the provision as recorded on the utility's financial records in each subsequent fiscal year.

**R 460.2623 Notice of deposit.**

Rule 13. Not less than 30 days after the close of the utility's fiscal year, the utility shall inform the commission of the amount of money that the utility recorded on its financial records for that year.

**R 460.2624 Disputes; procedure for resolution.**

Rule 14. A dispute regarding the reasonableness of an amount recorded on a utility's financial record as a provision for its uncollectible expenses or a dispute regarding the accuracy of the amount deposited into a utility's fund shall be resolved by the commission after notice to the utility and an opportunity for the utility and the commission staff to submit comments.

**R 460.2625 Disbursement of funds.**

Rule 15. (1) A cooperative electric utility shall annually allocate all money from its fund to its customers in proportionate amounts based on each customer's patronage with the cooperative. The money shall be paid to each customer in accordance with the cooperative's capital credit rotation policy.

(2) An investor-owned utility shall annually disburse money from its fund according to the following formula:

(a) Twenty-five percent (25%) shall be retained by the utility.

(b) Seventy-five percent (75%) shall be contributed to the Michigan clean air fund of the department of environmental quality.

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ADMINISTRATIVE RULES

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**PUBLIC SERVICE COMMISSION**

**CONSUMER STANDARDS AND BILLING PRACTICES  
FOR ELECTRIC AND GAS RESIDENTIAL SERVICE**

Filed with the Secretary of State on July 16, 2001.

This rescission takes effect 7 days after filing with the Secretary of State

(By authority conferred on the public service commission by section 7 of 1909 PA 106, section 5 of 1919 PA 419, sections 4 and 6 of 1939 PA 3, and sections 3, 9, and 231 of 1965 PA 380, MCL 460.557, 460.55, 460.4, 460.6, 16.103, 16.109, and 16.331)

R 460.2135 of the Michigan Administrative Code is rescinded as follows:

**PART 3. DEPOSITS AND GUARANTEES**

**R 460.2135 Rescinded.**



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ADMINISTRATIVE RULES

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**OCCUPATIONAL HEALTH STANDARDS**

**MEDICAL SERVICES AND FIRST AID—GENERAL INDUSTRY**

Filed with the Secretary of State on July 23, 2001.

This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024, and Executive Reorganization Orders Nos. 1996-1 and 1996-2, MCL 330.3101 and 445.2001)

R 325.47201 is added to the Michigan Administrative Code as follows:

**R 325.47201 Medical services and first aid.**

- (1) An employer shall ensure the ready availability of medical personnel for advice and consultation on matters of plant health.
- (2) An employer shall ensure that, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid. Adequate first aid supplies shall be readily available.
- (3) An employer shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body of any person may be exposed to injurious or corrosive materials.
- (4) This rule replaces O.H. rule 4401.

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**EMERGENCY RULES**

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MCL 24.248 states:

*“Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and shall not be compiled in the Michigan Administrative Code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.*

*(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.”*

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**EMERGENCY RULES**

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**BUREAU OF COMMERCIAL SERVICES**

**RESIDENTIAL BUILDERS' AND MAINTENANCE AND ALTERATIONS  
GENERAL RULES**

**EMERGENCY RULE**

Filed with the Secretary of State on August 1, 2001.  
This rule takes effect upon filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by 1980 PA 299, 1969 PA 306, and Executive Order No. 1996-2, MCL 339.308, 24.248, and 445.2001)

**FINDING OF EMERGENCY**

The director of the Michigan department of consumer and industry services finds that the preservation of the public health, safety, and welfare requires processing this emergency rule without following the notice and participation procedures required by sections 41 and 42 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.241 and 24.242 of the Michigan Compiled Laws.

Public Act 113 of 2001 provides for procedural changes to the contested cases involving complaints brought pursuant to 1980 PA 299. The changes contained in sections 2411(5) and (6) and 2412(2) of 2001 PA 113 significantly revise remedies available under newly authorized contract provision, but fail to include an implementation schedule. Without this implementation schedule, 2001 PA 113 will authorize contract provisions and change burden of proof standards for contracts signed and executed prior to the effective date of the act. As a result, the new act could interfere with existing contractual provisions in contracts dealing with home building and alteration. This interference and uncertainty could seriously jeopardize the welfare of those Michigan residents currently parties to contracts for home building, maintenance, repair or alteration as well as the multitude of business men and women currently involved in the home construction trade. The Emergency Rule will provide needed certainty, will assure the viability of existing contracts, and, will as a result, protect the welfare of the contract parties.

**Preservation of contract rights.**

Rule 1. (1) The provisions governing administrative proceedings regarding workmanship provided in 2001 PA 113, MCL 339.2411(5) shall only apply to contracts entered into and executed after July 31, 2001.

(2) The affirmative defense for failure to utilize a contractually provided alternative dispute resolution procedure authorized in 2001 PA 113, MCL 339.2412(2) shall only be available in actions brought under a contract entered into and executed after July 31, 2001.

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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PROPOSED ADMINISTRATIVE RULES

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**DEPARTMENT OF AGRICULTURE**

**FAIRS, EXHIBITIONS AND RACING DIVISION**

**REGULATION NO. 852. UPPER PENINSULA STATE FAIR**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the commission of agriculture by sections 1 and 4 of 1927 PA 89, and sections 7, 9, 276, and 286 of 1965 PA 380, MCL 285.141, 285.144, 16.107, 16.109, 16.276, and 16.286)

R 285.1101, R 285.1102, R 285.1103, R 285.1104, R 285.1201, R 285.1202, R 285.1203, R 285.1301, R 285.1302, R 285.1303, R 285.1304, R 285.1306 to R 285.1332, R 285.1401, R 285.1403, R 285.1405, R 285.1406, R 285.1408, R 285.1501 to R 285.1510, R 285.1511 to R 285.1515, R 285.1517, R 285.1602 to R 285.1607, R 285.1701 to R 285.1705, R 285.1801, and R 285.1091 to R 285.1907 of the Michigan Administrative Code are amended, R 285.1510a is added to the Code, and R 285.1402, R 285.1404, R 285.1407, R 285.1516, R 285.1601, R 285.1608, and R 285.1609 of the Code are rescinded as follows:

**PART 1. GENERAL PROVISIONS**

**R 285.1101 Definitions.**

Rule 101. As used in these rules:

- (a) "Agricultural exhibitor" means a person who enters an exhibit in the agricultural and livestock departments of the fair.
- (b) "Board" means the upper peninsula state fair board of managers.
- (c) "Commission" means the commission of agriculture.
- (d) "Community arts or youth exhibitor" means a person who enters an exhibit in the community arts or youth departments of the fair.
- (e) "Concessionaire or exhibitor ~~license~~ PERMIT" means a license agreement to operate a stand or exhibit, the main purpose of which is to exhibit commercial products, to solicit prospective buyers, or to make direct sales at the fair.
- "Concession stand" means a stand ~~which~~ THAT sells and immediately delivers food, beverages, specialty items, balloons, artwork, novelties, or other like items to fair patrons.
- "Department" means the department of agriculture.
- (h) "Director" means the director of agriculture.
- (i) "Educational exhibitor" means an educational, charitable, or nonprofit corporation exhibitor granted a ~~license~~ PERMIT by the fair.

(j) "Exhibit" means an article, item, livestock, or poultry entered for public display at the fair.

(k) "Exhibitor" means a holder of an exhibit ~~license~~ PERMIT, his OR HER agent, or designated representative.

(l) "Fair" means the upper peninsula state fair staged in Escanaba, Michigan.

(m) "Food concession" means a place or stand ~~which~~ THAT sells or serves food or beverages. ~~or both, and includes a restaurant and grabstand.~~

(n) "Games of skill" means a single location at the fair that contains 1 or more units of play of a game of skill. ~~The number of units of play is of no importance as long as all units of play are in the same location and are not separated from each other by wall, canvas, or other partition.~~

~~(o) "Grabstand" means a place serving hamburger sandwiches, hot dogs, or other specialty food, soft drinks, and coffee.~~

~~(p) "Licensor" means the Upper Peninsula state fair by its duly authorized representative.~~

(o) "Manager" means the duly appointed state civil service manager of the fair.

(p) "Non-fair ~~license~~ PERMIT" means a ~~license agreement~~ PERMIT, other than a lease, for use of any part of the buildings or fairgrounds when the fair is not in operation.

(q) "Premium book" means the publication WHICH ~~relating~~ RELATES to the administration of the annual fair event, AND WHICH IS prepared by the manager.

~~(t) "Restaurant" means a place serving plate lunches, dinners, or any other meal consisting of 2 or more foods.~~

(r) "LIVESTOCK" MEANS THOSE SPECIES OF ANIMALS USED FOR HUMAN FOOD AND FIBER OR THOSE SPECIES OF ANIMALS USED FOR SERVICE TO HUMANS. LIVESTOCK INCLUDES, BUT IS NOT LIMITED TO ANY OF THE FOLLOWING:

CATTLE.

SHEEP.

NEW WORLD CAMELIDS.

GOATS.

BISON.

CAPTIVE CERVIDAE.

RATITES.

SWINE.

EQUINE.

POULTRY.

AQUACULTURE.

RABBITS.

"LIVESTOCK" DOES NOT INCLUDE DOGS AND CATS.

(s) "TAMPERING" MEANS THE TREATMENT OF LIVESTOCK IN A MANNER THAT RESULTS IN FOOD DERIVED FROM THE LIVESTOCK BEING CONSIDERED ADULTERATED OR THE TREATMENT OF LIVESTOCK CONSISTENT WITH ANY PRACTICES DESCRIBED IN R 285.1604.

(t) "SABOTAGE" MEANS THE INTERFERENCE WITH ANY LIVESTOCK BELONGING TO OR OWNED BY ANOTHER PERSON WHICH HAS BEEN REGISTERED WITH, ENTERED IN, OR EXHIBITED AT, THE UPPER PENINSULA STATE FAIR, OR WHICH WAS RAISED WITH THE INTENT OF BEING ENTERED IN AN EXHIBITION.

**R 285.1102 Scope; business transactions; premium book rules; rates and fees; concession rights.**

Rule 102. (1) R 285.1101 applies to the operation of the fairgrounds during the fair and at other times.

(2) Business transactions of the fair shall be conducted according to established practices and procedures of the state of Michigan. ~~subject to such special procedures as may be established by resolution of the commission.~~

(3) All rules as printed in the annual premium book shall be binding upon all persons or events where applicable. The manager, as delegated by the director, reserves the right to interpret all of the rules in the premium book.

(4) The manager and the fair board shall recommend admission charges, license rental rates and fees, and the ~~commission~~ DIRECTOR OR HIS OR HER DESIGNEE shall approve or adjust the recommended rates.

~~(5) The commission retains all concession rights unless specifically granted to a licensee. If the licensee is granted concession rights, the licensee shall supervise his own concessions or the contracts for such concessions.~~

(6) The parking privilege shall remain the exclusive domain of the commission.

**R 285.1103 Interpretation of rules.**

Rule 103. (1) The ~~commission~~ DIRECTOR, after consultation with the Upper Peninsula state fair board, reserves the right to interpret these rules and to settle and determine questions and disputes in regard thereto or otherwise arising out of, connected with, or incident to, the operation of business.

The provisions printed in the premium book, the concessionaire ~~license~~ PERMIT, exhibitor ~~license~~ PERMIT; and non-fair ~~license~~ PERMIT shall be followed in the operation and conduct of business during and after the fair or event.

**R 285.1104 Inspection of premises.**

Rule 104. The fair management and authorized agents for governmental agencies, at any time, may enter upon and inspect any portion of the licensed premises to enforce provisions of a ~~license~~ PERMIT, applicable statutes, ordinances, and rules. IN SIGNING THE CONCESSIONAIRE AGREEMENT, VENDORS CONSENT TO ALLOW FAIR MANAGEMENT AND AUTHORIZED AGENTS FOR GOVERNMENTAL AGENCIES, AT ANY TIME, TO ENTER UPON AND INSPECT ANY PORTION OF THE PREMISES TO ENFORCE COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES AND RULES.

**R 285.1105 Procurement of services.**



Rule 105. The manager shall follow the state administrative manual and department policies and procedures relative to the procurement of services.

**R 285.1106 Program substitutions.**

Rule 106. The upper peninsula state fair management reserves the right to make substitutions at any time in programs and entertainment without refunding admission fees.

**PART 2. FAIR OPERATIONS**

**R 285.1201 Registration of businesses with state; hiring of minors.**

Rule 201. ~~(1) Michigan state law requires that businesses operating in Michigan be registered pursuant to the assumed or fictitious name act, and further, that corporations be registered with the state treasury department and department of commerce.~~

~~(2) Michigan department of labor rules relative to the hiring of minors shall be strictly enforced.~~ (1) A MINOR SHALL OBTAIN A MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES APPROVAL NUMBER AND A WORKING PERMIT FROM THE MINOR'S LOCAL SCHOOL ATTENDANCE DEPARTMENT. FAILURE TO MEET THE REQUIREMENTS IN THIS SUBRULE IS GROUNDS FOR A CANCELLATION OF A PERMIT OR A LEASE.

~~(2) Failure to meet the requirements in subrule (1) OF THIS RULE and (2) are grounds for cancellation of the license by the manager.~~

**R 285.1202 Advertising; violation.**

Rule 202. (1) A licensee PERMIT HOLDER, patron, or other person shall not place any advertising matter on a building, tree, or any other place on the grounds or distribute advertising matter or literature outside the place assigned by the terms of the license PERMIT.

(2) A person WHO IS found ~~in violation of~~ TO HAVE VIOLATED this rule by the manager ~~shall be~~ IS subject to expulsion from the fairgrounds and forfeiture of his OR HER contract and fees without recourse.

**R 285.1203 Intoxicating beverages.**

Rule 203. ~~Liquor or other intoxicating~~ ALCOHOLIC beverages shall ~~not~~ be permitted on the fairgrounds. THE FAIR MAY GRANT A PERMIT TO SELL ALCOHOL DURING EVENTS IF THE CONCESSIONAIRE HAS THE APPROPRIATE LICENSES AND IF APPROVED BY THE BOARD AND THE DEPARTMENT DIRECTOR.

**R 285.1204 Dogs.**

Rule 204. Owners shall register their dogs with the manager and comply with all terms of the registration form. If an owner fails to register a dog, the owner shall be ordered to remove the dog from the fairgrounds. A dog shall be under leash by owner or representative at all times on the fairgrounds.

**PART 3. CONCESSIONAIRE, EXHIBITOR, AND NON-FAIR LICENSEES  
PERMITS**

**R 285.1301 Concessionaire, exhibitor, and non-fair licenses PERMITS; application and issuance procedure; space rental; revocation.**

Rule 301. (1) The procedure described in this rule governs the issuance of concessionaire, exhibitor, and non-fair licenses PERMITS.

(2) A person OR ORGANIZATION seeking concession or exhibit space TO DISTRIBUTE, EXHIBIT, OR SELL ANY MATERIALS OR ITEMS ON THE FAIRGROUNDS ~~shall write to the manager requesting a space application form, stating articles to be sold or displayed, electrical requirements, and space required~~ SHALL COMPLETE AN APPLICATION FOR A PERMIT. THE APPLICANT SHALL COMPLETELY AND CORRECTLY FILL OUT AND SIGN THE APPLICATION.

~~(3) A person or organization desiring to distribute, exhibit, or sell printed material or items on the fairgrounds shall apply to the manager for a license. An application for a license shall be completely and correctly filled out and signed. An omission or misrepresentation is sufficient cause for refusal or revocation of the license by the manager. If the manager questions the legality or feasibility of the request, the applicant may request a review by the director. A license, if given final approval, shall be signed and executed by the manager.~~

(3) Concessionaires and exhibitors ~~with~~ THAT HAVE established satisfactory performance records at the fair, as determined by the manager, may be granted licenses PERMITS upon request before licenses PERMITS are issued to new concessionaires and exhibitors. The manager shall determine the eligibility and desirability BASED ON VENDOR MIX AND FAMILY ENTERTAINMENT VALUE of all license PERMIT requests, subject to review by the director.

(4) ~~All~~ THE MANAGER SHALL NOTIFY BOTH FAIR AND NON-FAIR concessionaire and exhibitor license PERMIT applicants ~~shall be notified~~ in writing of approval or disapproval. If the license PERMIT requires the signatures of corporate officers, other than the individuals supervising the exhibit, ~~such~~ THEN THE transaction may be carried out by mail. At the time of signing of the license PERMIT, the exhibitor shall agree on the location of ~~his~~ THE exhibit space AND SHALL PAY RENTALS FEES AS APPROVED BY THE DIRECTOR THAT ARE STATED ON THE APPLICATION FOR PERMIT OR ARE PUBLISHED BY THE DEPARTMENT.

~~(6) At the time of the signing of the concession or exhibit license, the concessionaire or exhibitor shall pay 50% of the space rental, and he shall pay the remaining 50% before the close of the second day of the fair. Payments shall be in cash, or by money order, certified check, or cashier's check.~~

~~(7) At the time of signing the non fair license, the non fair licensee shall pay 50%, to a maximum of \$100.00, of the space rental, and he shall pay the remaining amount of the license fee 1 day prior to the first day of rental under the license. Payments shall be in cash, or by money order, certified check, or cashier's check.~~

(5) A concessionaire, exhibitor, and non-fair licensee PERMIT HOLDER shall abide by the provisions of the appropriate license forms and by the rules AND PROCEDURES of the . ~~fairs division~~ DEPARTMENT. A license PERMIT may be revoked by the ~~licensor~~ DEPARTMENT, and no claim for damages shall accrue to a licensee PERMIT HOLDER, if

a licensee PERMIT HOLDER defaults in the ~~strict~~ performance of any provision, term, or condition of the ~~license~~ PERMIT OR RULES OF THE DEPARTMENT.

~~(9) This procedure shall be followed in all cases and all licenses shall be signed by the manager.~~

**R 285.1302 Rejection or conditional acceptance of application.**

Rule 302. The manager may reject; or ~~accept conditionally~~ CONDITIONALLY ACCEPT; an application for a ~~license~~ PERMIT BASED ON VENDOR MIX AND IN THE BEST INTEREST OF THE FAIR.

**R 285.1303 Space allocation.**

Rule 303. The allocation, number, and location of concessionaire, exhibitor, and non-fair licensee PERMIT HOLDER spaces shall be determined by the manager BASED ON VENDOR MIX AND IN THE BEST INTEREST OF THE FAIR.

**R 285.1304 Cancellation of space allotment and license.**

Rule 304. (1) A space allotment and ~~license~~ PERMIT may be canceled by the manager if a concessionaire or exhibitor fails to occupy the space allotted ~~to him~~ with the concession or exhibit specified on his ~~license~~ PERMIT before the opening of the fair; or for violation of the ~~license~~ PERMIT, state law, city ordinance, or these rules.

(2) A concessionaire or exhibitor may cancel the space allotted ~~to him~~ for the fair by advising the manager in writing on or before July 1. ~~of the year in which he has a license, or forfeit the 50% payment without recourse.~~

(3) The manager may refund 80% of the payment received ~~from fair licensed concessionaires or exhibitors~~ if a ~~license~~ PERMIT is properly canceled ~~prior to~~ BEFORE July 1 of the year the ~~license~~ PERMIT is issued.

(4) The manager may refund UP TO 80% of the payment received from A non-fair ~~licensees~~ PERMIT HOLDER if a ~~license~~ PERMIT is properly canceled by the manager not less than 14 30 days ~~prior to~~ BEFORE the start of the event. ~~Refunds are not payable if a non-fair license is canceled within 13 days of the start of the event or during the event.~~ THE MANAGER MAY DEDUCT THE COSTS OF ANY EXPENSES INCURRED BY THE FAIR.

**R 285.1305 Relocation of concession or exhibit.**

Rule 305. The manager reserves the right to require a concessionaire or exhibitor to locate at, or move his concession or exhibit to, some other site if the manager ~~deems it advisable or for~~ DETERMINES A PUBLIC SAFETY NEED OR IT IS the best interest of the fair. If the manager cannot find a suitable alternate site, the concessionaire or exhibitor is entitled to a pro rata refund of space rent paid.

**R 285.1306 Access to fairgrounds before opening day.**

Rule 306. A concessionaire or exhibitor shall be granted access to the fairgrounds and exhibit buildings ~~from 8:30 a.m. to 5 p.m. daily, including Saturday and Sunday, for 5 days~~ AS DEFINED BY PERMIT before the opening day of the fair for the purpose of preparing

his OR HER exhibits or concessions. ~~Special written permission to set up earlier shall be obtained from the manager.~~

**R 285.1307 Construction of exhibits; structural changes.**

Rule 307. (1) An exhibit in a building shall be constructed so it does not obstruct the public's view of an adjacent exhibit.

(2) A concessionaire's or exhibitor's displays and advertising ~~which~~ THAT form the back wall of his OR HER concession or exhibit shall not ~~exceed~~ BE MORE THAN 8 feet in height, ~~except if~~ UNLESS he OR SHE has obtained written permission from the fair management.

(3) A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER shall not mark, paint, drill, dig, or in any manner deface the ~~licensed~~ premises, except by written permission of the manager, and at the expiration of the ~~license~~ PERMIT, shall surrender the ~~licensed~~ premises in as good A condition as when first occupied.

(4) A licensee PERMIT HOLDER shall discuss with, and secure written approval of, the fair management before electrical wiring, decorations, partitions, or other structural changes are made in the rented buildings or on the grounds.

**R 285.1308 Signs and advertising; concession permits.**

Rule 308. (1) A concessionaire or exhibitor shall not place a sign or advertisement, which hangs over an aisle, in a building.

(2) A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER shall post on his OR HER ~~licensed~~ premises only ~~such~~ THE signs as the manager permits THAT PROVIDES INFORMATION ABOUT THE PRODUCT OR SERVICES OUTLINED UNDER THE APPLICATION AND/OR PERMIT.

(3) A concession permit issued by the manager shall be posted in a conspicuous location on the concession stand before the concessionaire may start to operate.

**R 285.1309 Set up and electrical hookup authorizations.**

Rule 309. An authorization for set up and electrical hookups shall be granted only after a concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER applies in person at the manager's office, and presents a copy of his or HER ~~license~~ PERMIT or receipts which denote compliance with payment requirements.

**R 285.1310 Electrical power; electricians; inspection of electrical connections; approval tag; payment for electrical services.**

~~Rule 310. (1) The Upper Peninsula state fair shall furnish electrical power only to the point of outlet. The Upper Peninsula state fair is not responsible for defective appliances brought onto the fairgrounds by concessionaires, exhibitors, or non-fair licensees. Special and additional connections for the operation of spotlights, lamps, fans, motors, signs, and other equipment shall be furnished by the concessionaire, exhibitor, or non-fair licensee. Such requirements shall be requested by the concessionaire, exhibitor, or non-fair licensee on the application furnished by the Upper Peninsula state fair.~~

Rule 310. THE FAIR SHALL FURNISH ELECTRICAL POWER ONLY TO THE POINT OF OUTLET. SPECIAL AND ADDITIONAL CONNECTIONS FOR THE OPERATION

OF SPOTLIGHTS, LAMPS, MOTORS, SIGNS, AND OTHER EQUIPMENT SHALL BE FURNISHED BY THE EXHIBITOR OR CONCESSIONAIRE. THE FAIR SHALL FURNISH THE APPLICATION FOR REQUESTED REQUIREMENTS. THE FAIR SHALL DESIGNATE A COMPETENT ELECTRICIAN TO BE IN ATTENDANCE UPON THE GROUNDS BEFORE, DURING, AND AFTER THE FAIR. THE EXHIBITOR OR CONCESSIONAIRE MAY MAKE ARRANGEMENTS FOR NECESSARY EXPERT SERVICE. THE LICENSED CONTRACTOR AND THE EXHIBITOR OR CONCESSIONAIRE SHALL MAKE THE ARRANGEMENT FOR PAYMENT FOR SERVICES BEFORE THE FAIR.

~~(2) Electricians shall be provided by the Upper Peninsula state fair or an electrical contractor to be in attendance on the fairgrounds before, during, and after the Upper Peninsula state fair or event, with whom the concessionaire, exhibitor, or non-fair licensee may make arrangements for necessary electrical service. It shall be the electrician's responsibility that all electrical connections are properly grounded and deemed safe.~~

~~(3) Final inspections of all electrical connections shall be made by the state electrical board pursuant to the rules and regulations contained in Act No. 217 of the Public Acts of 1956, being S 338.881 et seq. of the Michigan Compiled Laws.~~

~~(4) A concessionaire, exhibitor, or non-fair licensee shall display an "electrical approved" tag on the operating permit before the licensee is allowed to tie into the current provided by the Upper Peninsula state fair.~~

~~(5) Payment for electrical services provided by the Upper Peninsula state fair shall be made by the concessionaire, exhibitor, or non-fair licensee before the fair or event. Failure to make payment precludes the concessionaire, exhibitor, or non-fair licensee from using the fair facilities.~~

**R 285.1311 Concession, exhibit, and building hours.**

Rule 311. A concession or exhibit shall be open to the public DURING THE HOURS OF OPERATION OF THE EVENT OF THE FAIR. ~~and in the charge of a competent attendant, from 11 a.m. to 11 p.m. on each day of the fair.~~ Exhibit buildings shall be open to exhibitors 2 hours before scheduled opening time, and exhibitors shall vacate the buildings within 1 hour after closing.

**R 285.1312 Supervision of buildings; police and fire protection.**

Rule 312. (1) SUPERINTENDENTS, GUARDS OR WATCHMEN SHALL PROVIDE supervision ~~by building superintendents, guards, or watchmen shall be provided~~ for exhibit buildings IN USE 2 days before the fair, during the fair, and until 5 p.m. the day after the fair.

(2) The fair management shall provide concessionaires, exhibitors, and non-fair licensees PERMIT HOLDERS with normal police and fire protection during the fair and other events.

**R 285.1313 Licensee PERMIT HOLDER property; protection; liability for loss or damage.**

Rule 313. The fair management shall use diligence to protect concessionaire, exhibitor, and non-fair licensee PERMIT HOLDER property after its arrival on the fairgrounds.

However, the state, its officers, agents, and employees are not liable for loss, injury, or damage to a concessionaire, exhibitor, or ~~non-fair licensee~~ PERMIT HOLDER caused by fire, accident, condition of structure, or negligence of another concessionaire, exhibitor, or ~~non-fair licensee~~ PERMIT HOLDER, or for any other reason ~~whatever~~.

**R 285.1314 Assumption of risk by licensee PERMIT HOLDER; portable materials; shipments.**

Rule 314. (1) A concessionaire, exhibitor, or ~~non-fair licensee~~ PERMIT HOLDER shall assume all risks ensuing from merchandising and exhibiting while at the fairgrounds.

(2) A concessionaire, exhibitor, or ~~non-fair licensee~~ PERMIT HOLDER shall give special attention to the protection of portable materials during the set up period and during the tear down period following an event at the fairgrounds.

(3) A shipment of materials unaccompanied by its owner shall be consigned entirely at the owner's risk. ~~A shipment shall be addressed to the concessionaire, exhibitor, or non-fair licensee in care of the Upper Peninsula State Fairgrounds, Escanaba, Michigan 49829, and shall be clearly marked with the concessionaire space, license number, or exhibit building and booth number.~~ A shipment shall be accepted upon delivery at the fairgrounds if properly marked, and if cartage and other charges ~~have been~~ ARE prepaid.

**R 285.1315 Insurance; property damage, public liability, and workmen's compensation.**

Rule 315. A concessionaire, exhibitor, or ~~non-fair licensee~~ PERMIT HOLDER is responsible for providing his OR HER own insurance protection against property damage, public liability, and workmen's compensation as required by Michigan statutes ~~pursuant to his license~~ IN ACCORDANCE WITH THE PERMIT ISSUED BY THE FAIR.

**R 285.1316 Certificates of insurance.**

~~—Rule 316. Property of a concessionaire, exhibitor, or non-fair licensee who is required, pursuant to R 285.1315, to carry insurance shall not be admitted on the Upper Peninsula state fairgrounds unless the concessionaire, exhibitor, or non-fair licensee presents to the manager before the opening of the fair or event a certificate of his public liability and property damage insurance properly signed and dated by the insurance carrier. This provision also applies to workmen's compensation insurance pursuant to Michigan statutes. If the concessionaire, exhibitor, or non-fair licensee is a self-insurer under the Michigan workmen's compensation act, authorization for such self-insurance shall be presented to the manager.~~

Rule 316. THE MANAGER SHALL NOT ADMIT THE PROPERTY OF AN EXHIBITOR OR CONCESSIONAIRE, WHO, UNDER R 291.344 IS REQUIRED TO CARRY INSURANCE, ON THE UPPER PENINSULA FAIRGROUNDS UNLESS THE EXHIBITOR OR CONCESSIONAIRE HAS PRESENTED TO THE FAIR A CERTIFICATE OF PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE PROPERLY SIGNED AND DATED BY THE INSURANCE CARRIER. IN ADDITION, AN EXHIBITOR, CONCESSIONAIRE, OR NONFAIR PERMIT HOLDER SHALL PROVIDE THE FAIR WITH A CERTIFICATE OF WORKERS' COMPENSATION INSURANCE THAT MEETS THE REQUIREMENTS OF THE MICHIGAN WORKERS'

COMPENSATION ACT. IF THE EXHIBITOR OR CONCESSIONAIRE IS A SELF-INSURER UNDER THE MICHIGAN WORKERS' COMPENSATION ACT, THEN AUTHORIZATION FOR SELF-INSURANCE IS REQUIRED.

**R 285.1317 Applicable laws and ordinances; copies; fire regulations.**

Rule 317. A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER shall obey and conform to all laws of this state, and health, fire, and pertinent ordinances of the city of Escanaba and this state ~~which~~ THAT pertain to concessions, exhibits, and events. ~~Copies of these ordinances shall be available in the Upper Peninsula state fair office.~~ A licensee PERMIT HOLDER shall agree to ~~obey~~ immediately OBEY any order or regulation of the fire marshal or the manager regarding fire protection and fire hazards.

**R 285.1318 Admission tickets.**

Rule 318. A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER is not entitled to free admission tickets. ~~He~~ THE EXHIBITOR OR CONCESSIONAIRE may obtain reduced rate admission tickets at a rate approved by the ~~commission~~ BOARD. A refund shall not be made for unused tickets.

**R 285.1319 Parking area; permits.**

Rule 319. Concessionaires, exhibitors, and non-fair licensees PERMIT HOLDERS shall park in an area designated by the manager. Parking permits may be obtained by licensees PERMIT HOLDERS at the prevailing rate established by the board.

**R 285.1320 Parking stickers; display; service vehicles.**

Rule 320. (1) On the opening day of the fair or event, and at all times thereafter, concessionaire, exhibitor, and non-fair licensee PERMIT HOLDER vehicles shall display a parking sticker issued by the manager, shall enter and exit the fairgrounds through a gate designated by the manager, and ~~shall be~~ ARE subject to inspection by persons designated by the manager.

(2) During the fair or event, all vehicles servicing concessions and exhibits shall enter the fairgrounds through the designated gate. ~~Such~~ THE vehicles may be used to service and supply concessions and exhibits until ~~10 a.m. daily~~ 1 HOUR BEFORE THE OPENING OF THE FAIR OR EVENT, at which time the vehicles shall leave the fairgrounds proper and return to the concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER parking lots or leave the grounds. Failure to comply with this rule shall result in the vehicle being towed away at the owner's expense, and ~~shall be~~ IS cause for cancellation of the ~~license~~ PERMIT. ~~issued by the manager.~~

**R 285.1321 Mailing lists.**

Rule 321. A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER who desires to acquire mailing lists during the period of the fair or event shall submit ~~in writing~~ a WRITTEN description of the purpose for the list and the method he OR SHE proposes to use in acquiring the list. A licensee PERMIT HOLDER shall not attempt to acquire a mailing list of patrons by any method or scheme unless he OR SHE has received written permission from the manager.

**~~R 285.1322 Advertisement and sale of products; handbills; solicitors; sale without over the counter delivery; false advertising.~~ ADVERTISING OR SELLING PRODUCTS RESTRICTED.**

Rule 322. (1) A concessionaire or exhibitor shall not advertise or sell a product from the space allotted to him OR HER for a company not specified on his OR HER license PERMIT. (2) A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER shall distribute handbills or other advertising matter only ~~within the confines of his licensed space~~ FROM THE PERMITTED PREMISES. (3) A concessionaire's or exhibitor's solicitors shall not ~~be allowed to~~ operate outside their licensed space PERMITTED PREMISES. (4) Retail selling, with or without "over the counter" delivery of an item, is not allowed, ~~except~~ UNLESS if such privilege has been specifically applied for and approved pursuant to these rules BY THE MANAGER. ~~The licensee shall furnish pictures or other evidence identifying the articles for which the retail sales privilege is asked when requested by the manager.~~ (5) ~~Willful or intentional misrepresentation or false advertising shall be reported to the attorney general of this state.~~

**~~R 285.1323 Give-aways~~ GIVEAWAYS.**

Rule 323. (1) A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER shall obtain from the manager written permission to distribute ~~give-aways~~ GIVEAWAYS. ~~which shall be evidenced by official approval on the face of the concessionaire, exhibitor, or non-fair license. This authorization shall be applied for during the time when the license for space is being negotiated but not later than 2 weeks before the opening day of the Upper Peninsula state fair or event.~~ (2) AN EXHIBITOR, CONCESSIONAIRE OR NON-FAIR PERMIT HOLDER SHALL NOT DISTRIBUTE advertising ~~give-aways~~ GIVEAWAYS ~~which~~ THAT may conflict with any type of concession for which a license PERMIT has been granted. ~~shall not be distributed by a concessionaire, exhibitor, or non-fair licensee.~~

**~~R 285.1324 Price adjustment.~~**

Rule 324. The manager ~~reserves the right to~~ MAY to make adjustments in retail and wholesale prices. If, ~~in the opinion of the manager~~ THE MANAGER DETERMINES a retail or wholesale concessionaire fails to justify as reasonable BASED ON CURRENT MARKET PRICES OUTSIDE THE FAIRGROUNDS the prices ~~he~~ THE RETAILER, CONCESSIONAIRE, OR WHOLESALE is charging for merchandise, THEN the manager may adjust ~~such~~ THE prices.

**~~R 285.1325 Attention attraction devices; undue noise and objectionable operating methods.~~**

Rule 325. (1) ~~A voice amplifier, musical instrument, radio, or other similar device for the purpose of attracting attention to a concession or exhibit shall be used with discretion.~~ (1) ~~Undue~~ EXCESSIVE noise from the operation of a concession or exhibit, or noisy or objectionable methods employed in sales or demonstration activities ~~shall not be tolerated~~



ARE PROHIBITED. A concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER shall have an equal opportunity to conduct his OR HER own demonstrations without interference from his OR HER neighbors. ~~The final decision of~~ THE MANAGER SHALL DETERMINE what constitutes ~~and~~ EXCESSIVE noise or objectionable methods AS INTERFERING WITH THE PUBLIC SAFETY OR OTHER ACTIVITIES OF THE FAIR OR EVENT. ~~shall be made by the manager.~~

**R 285.1326 Refuse removal CLEANING.**

Rule 326. A concessionaire or exhibitor shall sweep refuse from his OR HER premises into the building aisles, or onto the streets, from 11 p.m. to midnight each night. Fair clean-up personnel shall sweep ~~this~~ refuse from commercial exhibit buildings and areas adjacent to concession stands each night after the buildings and streets are empty. Fair clean-up personnel ~~are forbidden to~~ SHALL NOT enter the concessionaires' or exhibitors' booths within buildings or concession stands.

**R 285.1327 Unclean and destroyed premises.**

Rule 327. If the premises occupied by a concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER are destroyed in any degree, or left in an unclean condition as a result of the use of the premises by the concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER, THEN the manager shall repair or clean the premises and charge the concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER. ~~the cost of such labor and materials.~~ Failure or refusal to pay ~~such~~ THE charge by a concessionaire, exhibitor, or non-fair licensee PERMIT HOLDER precludes ~~such~~ THAT party from eligibility to exhibit until ~~such~~ THE charge is paid.

**R 285.1328 Removal of exhibits; releases.**

~~—Rule 328. (1) A concessionaire, exhibitor, or non-fair licensee shall arrange for removal of his stands and exhibits under his own supervision. A stand, exhibit, or any part thereof, shall not be removed before the close of the fair without written permission of the manager. (2) As a protection to concessionaires and exhibitors, fair releases shall be required for all material taken from the fairgrounds at the end of the fair. Releases shall be issued by the manager at the designated fair closing time and during regular office hours on days after the close of the fair.~~

Rule 328. (1) AS A PROTECTION TO EXHIBITORS AND CONCESSIONAIRES, FAIR RELEASES ARE REQUIRED FOR ALL MATERIAL TAKEN FROM THE FAIRGROUNDS BY EXHIBITIONERS AND CONCESSIONAIRES AT THE END OF THE FAIR. THE FAIR SHALL DISTRIBUTE RELEASES AT THE DESIGNATED FAIR CLOSING TIME.

(2) A TRUCK, CAR, OR ANY TYPE OF VEHICLE SHALL NOT ENTER THE FAIRGROUND TO PICK UP EXHIBITS AND STANDS UNTIL THE TIME THAT IS DETERMINED BY THE FAIRGROUNDS.

**R 285.1329 Prohibited activities; protests.**

Rule 329. The ~~licensee covenants to~~ PERMIT HOLDER SHALL sell, handle, serve, display, or exhibit only ~~such~~ THE articles as THAT are specified on the ~~license~~ PERMIT,

and only from and upon the space assigned, except that the manager may ~~forthwith~~ prohibit the display, sale, or giving away of an item ~~which he considers~~ THAT THE MANAGER DETERMINES ~~to be endangering~~ ENDANGERS THE public health, safety, or morals. The ~~licensee~~ PERMIT HOLDER agrees to comply immediately with ~~such a~~ THE ban. A PERMIT HOLDER MAY, within 24 hours, ~~the licensee may~~ file a written request for a review of the manager's decision ~~by the~~ WITH the director. The display, sale, or giving away of an item ~~shall not be permitted~~ IS PROHIBITED unless THE DIRECTOR REVERSES the decision of the manager. ~~is reversed by the director.~~

### **R 285.1330 Fraud and misrepresentation.**

Rule 330. The ~~manager~~ DEPARTMENT shall ~~guard against~~ PROHIBIT any form of fraud practiced on patrons of the fairgrounds. Willful and intentional misrepresentations or false advertising shall result in expulsion of the concessionaire, exhibitor, or non-fair ~~licensee~~ PERMIT HOLDER from the fairgrounds, and forfeiture of his OR HER contract and fees without recourse. ~~The manager shall immediately report such suspected fraud or intentional misrepresentation to the attorney general of this state.~~

### **R 285.1331 Fair officers' and employees' interest in a license PERMIT concession, or exhibit.**

Rule 331. An officer or employee of the fair shall not have a concessionaire or exhibitor ~~license~~ PERMIT, or any interest in, or connection with, a concession or exhibit operated on the fairgrounds. If such an interest or ownership is discovered, THEN the ~~license~~ PERMIT shall be IS canceled; AND all money paid for the ~~license~~ PERMIT shall be forfeited without recourse. ~~and the employee shall be dismissed.~~

### **R 285.1332 Labor unions.**

Rule 332. The manager may cancel a ~~license~~ PERMIT ~~in case of labor union difficulties involving~~ OF a concessionaire, exhibitor, or non-fair ~~licensee~~ PERMIT HOLDER ~~which IF~~ LABOR UNION INVOLVEMENT may lead to, or result in, a strike or picketing of the fairgrounds. A concessionaire, exhibitor, or non-fair ~~licensee~~ PERMIT HOLDER whose ~~license~~ PERMIT is canceled ~~is not entitled to~~ SHALL RECEIVE a pro rata refund of unearned rental for the balance of the period provided for in his OR HER ~~license~~ PERMIT. ~~In such case, no liability for damages is chargeable to~~ The State OF MICHIGAN, its officers, agents, and employees ARE NOT LIABLE FOR DAMAGES RESULTING FROM THE CANCELLATION OF A PERMIT.

## **PART 4. FOOD CONCESSIONS**

### **R 285.1401 ~~Applicable—rules;—copies~~ ENFORCEMENT OF HEALTH, SANITATION, AND FOOD LAWS AND REGULATIONS.**

Rule 401. ~~Regulation No. 514, being R 285.514 of the Michigan Administrative Code~~ 2000 PA 92 39 AND ITS APPLICABLE RULES governing cooking, dispensing, and sale of foods and beverages shall apply and be strictly enforced. Failure to comply with this rule and other applicable rules and regulations is grounds for cancellation of a food concession

license PERMIT. Detailed copies of the regulation shall be available at the Upper Peninsula state fair office.

**~~R 285.1402 Additional health regulations.~~**

~~— Rule 402. A food licensee may be subject to additional health regulations which are deemed necessary by the state and city health authorities. He shall be notified of such additional regulations.~~

**R. 285.1402 RESCINDED.**

**~~R 285.1403 Violation of health, sanitation, and food laws. EFFECT OF VIOLATION OF HEALTH SANITATION AND FOOD LAWS.~~**

Rule 403. (2) A licensee A PERMIT HOLDER who sells or dispenses food products or beverages expressly agrees that the manager may close the licensee's PERMIT HOLDER'S place of business or expel such licensee, his or its THE PERMIT HOLDER, HIS OR HER agents, servants, and HIS OR HER employees from the fairgrounds, with forfeiture of all license fees, if such licensee THE PERMIT HOLDER, after being duly warned by the manager, receives a notice of a violation of health, sanitation, or food laws from appropriate governmental representatives. The licensee PERMIT HOLDER may appeal the closing of his OR HER place of business, or his OR HER expulsion, by filing a written request WITH THE DIRECTOR for a review of the decision of the manager. ~~by the director, but his~~ THE PERMIT HOLDER'S place of business shall not be permitted to operate until UNLESS the director reverses the decision of the manager.

**~~R 285.1404 Sinks; water heaters.~~**

~~— Rule 404. A restaurant shall have a 2-compartment sink so dispensing dishware and cooking utensils may be washed, rinsed, and sterilized pursuant to state and city health requirements. A restaurant shall have a gas or electric water heater of sufficient size to insure an adequate supply of hot water to meet state and city health requirements.~~

**R 285.1404 RESCINDED.**

**R 285.1405 Garbage cans; liners.**

Rule 405. A food concessionAIRE licensee shall furnish a minimum of 2 20-gallon garbage cans with THAT HAVE tops unless more are required by the manager. A restaurant licensee shall furnish a sufficient number of garbage cans, as designated by the fair management. THE CONCESSIONAIRE SHALL FURNISH appropriate can liners or bag liners shall be furnished by the licensee and shall be used USE THE LINERS in all garbage cans. When these CANS are filled, they THE CONCESSIONAIRE shall be promptly removed, REMOVE THE CANS, closed CLOSE THEM securely, AND neatly piled PILE THEM for pickup in a given area, and THE CONCESSIONAIRE SHALL INSERT a new liner inserted. The fair shall provide PICK UP garbage pickup each day.

**R 285.1406 Disposable cups and eating utensils.**

Rule 406. A food concessionAIRE licensee shall serve soft drinks to customers only in ~~paper cups~~ CONTAINERS APPROVED BY THE MANAGER AND THE DEPARTMENT. Dishes and eating utensils used by the public shall be disposable and of a single-service variety. ~~Nonreturnable bottles of no deposit no return variety are not allowed on the fairgrounds.~~

**~~R 285.1407 Restaurant and grabstand seating.~~**

~~—Rule 407. A restaurant may seat patrons on stools, at a counter, or in chairs at a table. A grabstand may be without seating facilities or may seat patrons on stools, at a counter, or in chairs alongside the stand.~~

**R 285.1407 RESCINDED.**

**R 285.1408 Item pricing.**

Rule 408. A licensee PERMIT HOLDER shall price all items for sale or post price lists on cards in a conspicuous place on his OR HER stand.

**PART 5. AGRICULTURAL EXHIBITS**

**R 285.1501 Competition open to residents.**

Rule 501. (1) Competition in agricultural exhibits is open ~~only to Upper Peninsula residents~~ INTERNATIONALLY, unless otherwise specified. All agricultural exhibitors shall own and exhibit their respective entries, unless otherwise specified. AN EMPLOYEE OF THE UPPER PENINSULA STATE FAIR MAY NOT EXHIBIT.

**R 285.1502 Special offers.**

Rule 502. ~~The fair management, board, and commission are~~ DEPARTMENT IS not responsible for payment of special offers by various associations and individuals. UPON REQUEST, the manager, ~~however,~~ shall furnish the ~~various associations~~ THE necessary lists of winning fair agricultural exhibitors ~~upon request.~~ TO THE VARIOUS ORGANIZATIONS.

**R 285.1503 Entry applications; closing date; right to compete.**

Rule 503. (1) ~~Application~~ AN EXHIBITOR SHALL APPLY for entries in all departments ~~shall be made by an agricultural exhibitor~~ on the printed form provided by the fair. ~~for that purpose.~~ The agricultural AN exhibitor, by signing the form, agrees to comply with the provisions printed on it THE APPLICATION and in the premium book. ~~Applications for stalls and pens shall be sent directly to the Upper Peninsula State Fair, Escanaba, Michigan 49829, at the time entries are made.~~

(2) Entries in the departments shall close on the dates listed for ~~those~~ THE departments in the premium book, or at ~~such time as~~ WHEN all available space has been allotted. LATE entries shall not be accepted thereafter unless the ~~time is extended by appropriate action of the manager~~ DETERMINES IT IS IN THE BEST INTEREST OF THE FAIR TO EXTEND THE TIME PERIOD.

~~A IF AN EXHIBITOR OR PATRON questions as to the propriety or right of an animal or article to compete in a class, THEN THE EXHIBITOR OR PATRON shall be submitted~~ MAKE A WRITTEN REQUEST FOR A DETERMINATION FROM THE MANAGER ~~to the manager for determination.~~ THE MANAGER SHALL PROVIDE A WRITTEN REPONSE.

**R 285.1504 Entrance fees; refunds.**

Rule 504. THE FAIR SHALL CHARGE an ~~entrance~~ ENTRY fee AS DETERMINED BY THE BOARD AND as stated both in the premium book under each of the ~~several~~ departments and on the ~~forms for applying for entries~~ ENTRY APPLICATION. THE ENTRY FEE shall be charged to the exhibitor in each department and shall be paid at the time of ~~applying for entries~~ APPLICATION. Fees shall not be refunded for animals entered but not exhibited, except UNDER BOTH OF THE FOLLOWING CONDITIONS:

(a) THE REQUEST FOR REFUND IS PRESENTED IN WRITING WITH THE EXHIBITOR'S REASON FOR THE REQUEST.  
THE REQUEST IS ACCEPTED BY THE GENERAL MANAGER IN THE BEST INTEREST OF THE FAIR.

**R 285.1505 Conditional acceptance or cancellation of entries; prizes.**

Rule 505. ~~The manager, as authorized by the director, reserves the right to refuse, to accept conditionally, or to cancel any entries and awards of a prize for justifiable cause without claim for damages. Cancellations or additional entries shall not be permitted after closing dates, unless the manager determines that there is justifiable grounds for such action.~~ (1) WHEN IN THE BEST INTEREST OF THE FAIR AND/OR FOR HEALTH AND SAFETY REASONS, THE MANAGER MAY TAKE ANY OF THE FOLLOWING ACTIONS FOR JUSTIFIABLE CAUSE:

(a) REFUSE THE ENTRY.  
(b) CONDITIONALLY ACCEPT THE ENTRY.  
CANCEL ANY ENTRIES.

THE MANAGER SHALL NOT PERMIT A CANCELLATION OR ADDITIONAL ENTRY AFTER THE CLOSING DATE, UNLESS THE MANAGER DETERMINES THAT THERE IS JUSTIFIABLE CAUSE FOR CANCELLATION OR ADDITIONAL ENTRY.

**R 285.1506 Exhibition time; late arrival.**

Rule 506. ~~Agricultural~~ AN ~~Exhibits~~ EXHIBIT in each department shall be in place for exhibition at the time specified in the printed provisions for each department. ~~Agricultural~~ AN ~~Exhibitors~~ EXHIBITOR arriving late shall be excluded from AN exhibition, except FOR ~~those~~ AN EXHIBITOR WHO IS coming directly from ~~other~~ ANOTHER ~~fairs~~ FAIR ~~with~~ AND WHO HAS advance written permission ~~of~~ FROM the manager.

**R 285.1507 Failure or refusal to exhibit.**

Rule 507. An ~~agricultural~~ exhibitor who fails or refuses to exhibit an animal or article for any reason ~~which proves~~ THAT IS ~~unsatisfactory to~~ NOT IN THE BEST INTEREST OF THE FAIR AS DETERMINED BY the manager shall forfeit all fees and rents paid by him OR HER, as well as premiums won by earlier ~~agricultural~~ exhibits. The manager may

order the ~~agricultural~~ exhibitor to vacate ~~such~~ THE stalls, pens, or space, and remove ~~such~~ THE animals or articles from the fairgrounds.

**R 285.1508 Removal of exhibits.**

Rule 508. (1) ~~Agricultural~~ AN EXHIBITOR SHALL REMOVE AN ~~Exhibits~~ EXHIBIT ~~shall be removed~~ at the time specified in the premium book. ~~Agricultural~~ AN ~~Exhibitors~~ EXHIBITOR WHO VIOLATES ~~disregarding~~ this rule shall forfeit all premiums, rights, and privileges without recourse.

UPON WRITTEN REQUEST THE MANAGER MAY PERMIT AN EARLY RELEASE OF AN EXHIBIT, DUE TO PARTICIPATION IN ANOTHER EXHIBIT OR BECAUSE OF FAMILY HARDSHIP.

**R 285.1509 Exhibits; protection; liability for loss or damage.**

Rule 509. The fair management shall use diligence to protect livestock and articles entered for ~~agricultural~~ exhibition or display after ~~their~~ arrival OF THE LIVESTOCK OR ARTICLES on the fairgrounds. However, the State OF MICHIGAN, its officers, agents, and employees are not liable for loss, injury, or damage to ~~such~~ THE livestock or articles. ~~for any reason.~~

**R 285.1510 Superintendent's duties.**

Rule 510. (1) A superintendent ~~shall have~~ IS IN charge of the department to which he OR SHE is assigned, and shall ~~be responsible for assignment of space, and showing of the agricultural exhibits, and other related activities assigned by the manager, and shall~~ enforce all provisions, procedures, and regulations related to ~~his~~ THE ASSIGNED department.

(2) A superintendent shall direct the calling of classes for judging in accordance with the printed program as far as practicable and shall ensure that the judges report fully upon each animal or article exhibited in each class.

~~(3) A superintendent shall ensure that the numbers representing awards are correctly entered on the award sheets, check all numbers, have each book signed by the judge and ring clerk, affix his signature and date, and when completed return the book and all department related records to the entry office.~~

~~Such duties shall~~ A SUPERINTENDENT SHALL PERFORM ALL DUTIES REQUIRED IN THIS RULE. A SUPERINTENDENT SHALL PERFORM THE DUTIES ~~be performed~~ under the direction of the manager.

**R 285.1510a LIVESTOCK COMMITTEE.**

RULE 510a (1) THE DEPARTMENT SHALL ESTABLISH A LIVESTOCK COMMITTEE. THE MEMBERSHIP OF THE COMMITTEE SHALL BE COMPRISED OF REPRESENTATIVES FROM EACH OF THE FOLLOWING:

- (a) EACH LIVESTOCK SPECIES COMMITTEE.
- (b) THE AUCTION COMMITTEE.
- (c) MICHIGAN STATE UNIVERSITY.
- (d) THE STATE VETERINARIAN OR HIS OR HER DESIGNEE.

(e) THE DIRECTOR OF THE MICHIGAN DEPARTMENT OF AGRICULTURE FAIRS, EXHIBITIONS, AND RACING DIVISION OR HIS OR HER DESIGNEE.

(f) A VETERINARIAN IN PRIVATE PRACTICE.

(g) THE MANAGER.

THE AGRICULTURE SUPERINTENDENT SHALL SERVE AS THE STAFF ADVISOR TO THE COMMITTEE.

(2) THE COMMITTEE HAS ALL OF THE FOLLOWING DUTIES:

(a) RESPONSIBILITY FOR THE REVIEW OF ALL POLICIES AND PROCEDURES DEVELOPED BY THE AGRICULTURE SUPERINTENDENT TO DETERMINE IF THE POLICES AND PROCEDURES ARE IN THE BEST INTEREST OF THE UPPER PENINSULA STATE FAIR AND THE INDUSTRY.

(b) REVIEWING ALL COMPLAINTS FILED REGARDING LIVESTOCK EXHIBITIONS AT THE FAIR AND MAKING RECOMMENDATIONS TO THE MANAGER FOR APPROPRIATE ACTION.

(c) ESTABLISHING A SUBCOMMITTEE FOR THE LIVESTOCK AUCTION.

(d) ESTABLISHING A SUBCOMMITTEE FOR EACH SPECIES TO PROVIDE RECOMMENDATIONS FOR SHOW GUIDELINES.

#### **R 285.1511 Judges; self-interest; objections.**

Rule 511. (1) A person shall not act as judge in a class in which he OR SHE ~~may be~~ IS interested as an ~~agricultural~~ exhibitor, agent, or employee of an ~~agricultural~~ exhibitor, or otherwise. ~~In such case~~ IF A JUDGE IS AN INTERESTED PARTY, THEN the manager shall remove the interested judge and substitute another judge for that specific class.

A PERSON WHO ~~objections~~ OBJECTS to a person serving as judge shall ~~be submitted~~ SUBMIT THE OBJECTION WITH SPECIFIC REASONS, in writing, ~~prior to~~ BEFORE the making of an award IS MADE. ~~giving good and sufficient reasons therefor~~ The superintendent shall refer ~~this~~ THE OBJECTION to the manager ~~who shall resolve the problem arising from the objection.~~ FOR A DETERMINATION BASED ON THE PROMOTION OF COMPETITION AND THE BEST INTEREST OF THE FAIR.

#### **R 285.1512 Judges; duties; decision.**

Rule 512. (1) ~~Judges shall report to the superintendent at their headquarters at the time fixed for awarding premiums on the lots which they are to judge.~~ A JUDGE SHALL COMPLY WITH FAIR REGULATIONS, PROCEDURES, AND POLICIES IN DELIBERATING AWARDS.

(2) If a judge has good reason to believe that an ~~agricultural~~ exhibitor, by false entry or otherwise, ~~attempts~~ IS ATTEMPTING to deceive the judge or the public to obtain a premium by misrepresentation, ~~he~~ THEN THE JUDGE shall report the facts immediately to the superintendent. The superintendent shall report immediately to the manager for a determination of the eligibility of the ~~agricultural~~ exhibitor to show the animal or article involved.

(3) The decision of ~~the judges~~ THE JUDGE IS ~~shall be~~ final, except in the case of a formal protest, ~~pursuant to~~ UNDER R 285.1513.

#### **R 285.1513 Formal protests.**

Rule 513. (1) AN EXHIBITOR OR PATRON SHALL MAKE a formal WRITTEN protest ~~by an agricultural exhibitor shall be made in writing~~ to the manager, WHICH SHALL BE accompanied by an affidavit setting forth the grounds for the protest. A formal protest against an ~~agricultural~~ exhibition of animals or articles shall be filed not less than 24 hours before the ~~judging takes place and~~ AWARDS ARE MADE. The manager shall hear ~~such~~ THE protest and make a decision before the judging. A formal protest against a placing shall be filed not more than 6 hours after the placing is made, and shall be considered by the manager. ~~Interested parties shall be duly notified~~ UNDER PROCEDURE ESTABLISHED BY THE DEPARTMENT, THE MANAGER SHALL NOTIFY ALL PARTIES and give THE PARTIES an opportunity to submit evidence before a final decision is made ~~pursuant to a procedure established by the director.~~

(2) A PERSON WHO MAKES A FORMAL PROTEST SHALL DEPOSIT THE SUM OF \$50.00. IF THE PROTEST IS SUSTAINED, THE FAIR SHALL RETURN THE DEPOSIT TO THE COMPLAINANT AND IF THE PROTEST IS NOT SUSTAINED, THEN THE DEPOSIT SHALL BE FORFEITED.

(3) AN EXHIBITOR AGAINST WHOM A PROTEST HAS BEEN FILED HAS THE RIGHT TO READ THE STATEMENT OF PROTEST.

**R 285.1514 Premiums; payment; forfeiture; proration.**

Rule 514. (1) Only judges' books ~~shall~~ MAY be used as evidence of payment of premiums. Ribbons and tags ~~are not acceptable for this purpose~~ SHALL NOT BE USED AS EVIDENCE OF PAYMENT OF PREMIUMS.

(2) ~~An agricultural exhibitor who insults a judge in any manner, or influences another person to do so, shall be reported to the manager by the judge or the superintendent.~~ A JUDGE OR SUPERINTENDENT SHALL REPORT TO THE MANAGER ANY EXHIBITOR WHO INSULTS A JUDGE IN ANY MANNER OR WHO INFLUENCES ANOTHER PERSON TO INSULT A JUDGE. The manager may order ~~that the agricultural exhibitor shall~~ TO forfeit all premiums and be excluded from exhibiting all OF his OR HER animals or articles.

(3) ~~The board may authorize the manager to prorate the premium money in such department or section within the total amount allocated to a department or section.~~

**R 285.1515 Fraud.**

Rule 515. ~~The manager shall take cognizance of fraud which may have been consummated or attempted, and may deal with any person implicated therein in such manner as the manager deems just and proper. All such suspected fraud shall be immediately reported to the attorney general of this state.~~ (1) IF CLEAR AND CONVINCING EVIDENCE IS OBTAINED THAT A REGULATION, POLICY, OR PROCEDURE HAS BEEN VIOLATED AND THAT FRAUD OR DECEPTION HAS OCCURRED IN ASSOCIATION WITH EXHIBITING IN THE FAIR, THEN THE MANAGER SHALL TAKE 1 OR MORE OF THE FOLLOWING ACTIONS:

- (a) DISQUALIFY THE EXHIBIT IN QUESTION.
- (b) DISQUALIFY ANY OR ALL OTHER EXHIBITS OF THE EXHIBITOR.
- (c) WITHDRAW ALL PREMIUMS, TROPHIES, AWARDS, OR MONEY WON BY THE EXHIBITOR.



(d) BAR THE EXHIBITOR, THE EXHIBITOR'S IMMEDIATE FAMILY, OR BOTH, FROM COMPETING AT THE UPPER PENINSULA STATE FAIR FOR A MAXIMUM OF 3 YEARS. IMMEDIATE FAMILY INCLUDES PARENTS, GRANDPARENTS, CHILDREN, GRANDCHILDREN AND SIBLINGS.

(2) IF FRAUD OR DECEPTION IS DISCOVERED BEFORE FINAL PLACING BY THE JUDGE, THEN THE EXHIBIT WILL BE DECLARED INELIGIBLE TO SHOW AND THE EXHIBITOR WILL BE REQUIRED TO REMOVE THE EXHIBIT FROM THE FAIRGROUNDS.

(3) IF FRAUD OR DECEPTION IS DISCOVERED AFTER AN EXHIBIT HAS BEEN JUDGED, THEN THE PLACING WILL BE VOIDED AND THE EXHIBITOR SHALL REMOVE THE EXHIBIT FROM THE FAIRGROUNDS. IF FRAUD OR DECEPTION IS DISCOVERED AFTER MARKET LIVESTOCK HAVE BEEN JUDGED AND BEFORE SALE IN THE LIVESTOCK SALE, THEN THE PLACING WILL BE VOIDED AND THE ANIMAL MAY NOT BE SOLD IN THE SALE. THE EXHIBITOR SHALL REMOVE THE MARKET ANIMAL FROM THE FAIRGROUNDS.

(4) IF FRAUD OR DECEPTION IS DISCOVERED AFTER A MARKET ANIMAL HAS BEEN SOLD, THEN THE MONEY ASSOCIATED WITH THE SALE SHALL BE REMITTED TO THE BUYER. OTHER ANIMALS SHALL NOT BE MOVED UP IN PLACING. IN CASE ANY REWARD HAS ALREADY BEEN AWARDED, THE LIVESTOCK COMMITTEE WILL REQUIRE THE EXHIBITOR TO REFUND ALL PREMIUMS, TROPHIES, AWARDS, RIBBONS, OR SALE MONEY UNDER THE ASSESSED PENALTY.

**~~R 285.1516 Release of exhibits.~~**

~~—Rule 516. (1) The release time of agricultural exhibits is specified in the provisions listed in the premium book at the beginning of each department's section. An agricultural exhibitor removing an animal or article before the hour of release for that department without written permission of the manager shall forfeit all fees paid and all premiums and awards won.~~

~~(2) The manager may change the time of release in a department at his discretion.~~

~~(3) If an agricultural exhibitor requests an early release for the sole purpose of entering another fair, the manager shall receive from the other fair an official confirmation advising the acceptance of entries and stating the dates of judging. This confirmation shall be made available to the manager not later than the day before the opening day of the fair.~~

**R 285.1516 RESCINDED.**

**R 285.1517 Interpretation and violation of rules.**

Rule 517. (1) The manager shall interpret the meaning and application of THESE rules in parts 5 and 6. AN EXHIBITOR MAY request for an opinion, either by an agricultural exhibitor or judge FROM THE MANAGER. THE REQUEST shall be made in writing and returned to the entry office with the award books.

~~The disregarding or violation of these~~ NONCOMPLIANCE WITH ANY rules by an agricultural exhibitor shall result in forfeiture of all premiums, rights, and privileges without recourse.

## **PART 6. ANIMAL EXHIBITS**

### **~~R 285.1601 Occupancy of reserved stalls and pens.~~**

~~—Rule 601. An agricultural exhibitor reserving stalls or pens and not occupying them on or before the time specified for the animals to be in place, as listed in the premium book, forfeits the entry and stall or pen fees, and the stall or pen is subject to reassignment.~~

### **R 285.1601 RESCINDED.**

### **R 285.1602 Approval of health conditions. POLICIES FOR EXHIBITION.**

Rule 602. ~~Cattle, sheep, horses, goats, and swine are not permitted to remain on the grounds unless the health conditions of the animals have been approved by the state veterinarian or his assistant.~~ (1) THE FAIR SHALL PUBLISH A PREMIUM BOOK AS REQUIRED BY R 285.811.1 ET SEQ., AND MAKE THE PREMIUM BOOK AVAILABLE TO ALL EXHIBITORS. THE FAIR SHALL PUBLISH THE RULES FOR EXHIBITION IN THE PREMIUM BOOK, OR SHALL REFERENCE THE RULES, AND MAKE THE RULES AVAILABLE TO AN EXHIBITOR UPON REQUEST.

(2) THE LIVESTOCK COMMITTEE SHALL DETERMINE GENERALLY ACCEPTED GROOMING PRACTICES FOR LIVESTOCK AND PUBLISH THE PRACTICES IN THE PREMIUM BOOK.

### **R 285.1603 ~~Recent champions; pictures.~~ HEALTH REQUIREMENTS.**

Rule 603. ~~Pictures of the latest fair champions may be printed in the premium book only as approved by the manager.~~ (1) ALL LIVESTOCK PRESENTED FOR EXHIBITION SHALL HAVE A VALID REQUIRED OFFICIAL HEALTH CERTIFICATE OR A CERTIFICATE OF VETERINARY INSPECTION AND PROOF OF REQUIRED TESTING AND NEGATIVE RESULTS BEFORE DISPLAYING, EXHIBITING, OR STABLING ANIMALS IN THE EXHIBITION AREA OR COMMINGLING WITH OTHER ANIMALS.

THE OFFICIAL HEALTH CERTIFICATE OR CERTIFICATE OF VETERINARY INSPECTION AND THE REQUIRED TESTING SHALL BE AS DEFINED IN 1988 PA 466, MCL 287.701 ET SEQ OR BY THE DEPARTMENT AND PUBLISHED IN THE PREMIUM BOOK.

(3) EACH ANIMAL PRESENTED FOR EXHIBITION SHALL BE EXAMINED BY A VETERINARIAN OR VETERINARIAN'S REPRESENTATIVE BEFORE DISPLAYING, EXHIBITING, OR STABLING IN THE EXHIBITION AREA OR BEFORE COMMINGLING WITH OTHER ANIMALS.

(4) THE PRESENTATION OF AN ANIMAL FOR EXAMINATION SHALL OCCUR AT SCHEDULED INTERVALS DEPENDING ON THE EXHIBITION SCHEDULE.

### **R 285.1604 ~~Exhibitor vehicles; parking; unloading; registration.~~ CRUELTY; PROHIBITED CONDUCT.**

Rule 604. (1) ~~A vehicle parking area may be provided for exhibitors of horses, goats, cattle, sheep, and swine.~~

~~(2) Agricultural exhibitors shall remove their vehicles from the area adjacent to buildings as soon as the unloading of animals and supplies is completed and shall park vehicles in designated areas.~~

~~(3) Vehicles used for sleeping, camping, or living quarters shall be registered with the manager and parked in the area designated by the manager. Any fees shall be collected at the time of registration of the vehicle.~~

(1) LIVESTOCK SHALL BE TREATED IN A HUMANE MANNER AND IN ACCORDANCE WITH GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES FOR THE CARE OF FARM ANIMALS AND ACCEPTABLE COMMERCIAL PRACTICES TO PROTECT THE LIVESTOCK'S HEALTH, SAFETY, OR WELFARE. THE LIVESTOCK SUPERVISOR SHALL NOTIFY THE PROPER AUTHORITY IF CRUEL OR PROHIBITED CONDUCT IS OBSERVED.

(2) ALL OF THE FOLLOWING PRACTICES ARE PRESUMED TO BE THREATS TO LIVESTOCK HEALTH, SAFETY OR WELFARE; HUMAN HEALTH, SAFETY, OR WELFARE; OR FOOD SAFETY, AND ARE PROHIBITED:

(a) INJECTION OR INSERTION OF ANY MATERIAL INTO AN ANIMAL FOR NONMEDICAL PURPOSES TO MODIFY THE CONFORMATION OR APPEARANCE OF THE ANIMAL.

(b) INJECTION OR INSERTION OF ANY MATERIAL INTO AN ANIMAL FOR MEDICAL PURPOSES WITH THE INTENT OF THE SIDE EFFECT CAUSING A MODIFICATION OF THE CONFORMATION OR APPEARANCE OF THE ANIMAL.

(c) STRIKING, BEATING, HITTING, OR OTHERWISE CONTACTING AN ANIMAL THAT WOULD INDUCE SWELLING OR CHANGES, OR THAT TRANSFORMS CONFORMATION OR APPEARANCE OF THAT ANIMAL.

(d) ELECTRIC PRODS, CANVAS SLAPPERS, OR OTHER IMPLEMENTS EMPLOYED TO DRIVE ANIMALS SHALL BE USED AS LITTLE AS POSSIBLE IN ORDER TO MINIMIZE EXCITEMENT AND INJURY. ANY USE OF SUCH IMPLEMENTS WHICH, IN THE OPINION OF THE SUPERINTENDENT, IS EXCESSIVE, IS PROHIBITED. ELECTRICAL PRODS ATTACHED TO AC HOUSE CURRENT SHALL BE REDUCED BY A TRANSFORMER TO THE LOWEST EFFECTIVE VOLTAGE NOT TO EXCEED TO 50 VOLTS AC. PIPES, SHARP OR POINTED OBJECTS, AND OTHER ITEMS WHICH, IN THE OPINION OF THE SUPERINTENDENT, WOULD CAUSE INJURY OR UNNECESSARY PAIN TO THE ANIMAL SHALL NOT BE USED.

(e) PERFORMANCE OF ANY SURGICAL PROCEDURE TO MODIFY THE CONFORMATION OR APPEARANCE OF AN ANIMAL, EXCEPT FOR SURGICAL PROCEDURES PERFORMED BY A LICENSED VETERINARIAN FOR REASONS OF MEDICAL NECESSITY OR STANDARD ANIMAL CARE PRACTICES.

(f) PRESENTATION OF ANY ANIMAL SUSPECTED OF RETAINING ANY TESTICULAR OR ACCESSORY REPRODUCTIVE TISSUE WHETHER BY NATURAL OCCURRENCE OR SURGICAL PROCESS.

(g) ADMINISTRATION OR PERMITTING THE ADMINISTRATION OF A PRESCRIPTION DRUG TO LIVESTOCK, INTENDED FOR TERMINAL OR PART-TERMINAL SHOW, EITHER BEFORE OR DURING THE EXHIBITION, UNLESS THE PRESCRIPTION DRUG IS ADMINISTERED UNDER ALL THE FOLLOWING CONDITIONS:

- (i) BY OR UNDER THE SUPERVISION OF A VETERINARIAN.
- (ii) IN ACCORDANCE WITH LABEL DIRECTIONS.
- (iii) WITH AN ESTABLISHED VETERINARIAN-CLIENT-PATIENT RELATIONSHIP.
- (iv) FOR A VALID MEDICAL PURPOSE ONLY.
- (v) THE TIMING OF DRUG WITHDRAWAL CAN BE FOLLOWED WITHOUT RISK TO FOOD SAFETY.
- (h) ADMINISTRATION OR PERMITTING THE ADMINISTRATION OF AN OVER-THE-COUNTER DRUG TO LIVESTOCK, INTENDED FOR TERMINAL OR PART-TERMINAL SHOW, EITHER BEFORE OR DURING THE EXHIBITION, UNLESS THE OVER-THE-COUNTER DRUG IS ADMINISTERED UNDER ALL OF THE FOLLOWING CONDITIONS:
  - (i) UNDER THE SUPERVISION OF THE EXHIBITOR OR OWNER.
  - (ii) IN ACCORDANCE WITH LABEL DIRECTIONS ONLY.
  - (iii) FOR A VALID MEDICAL PURPOSE ONLY.
  - (iv) THE TIMING OF DRUG WITHDRAWAL CAN BE FOLLOWED WITHOUT RISK TO FOOD SAFETY.
- (i) ADMINISTRATION OR PERMITTING THE ADMINISTRATION OF AN EXTRA-LABEL USAGE DRUG TO LIVESTOCK, INTENDED FOR TERMINAL OR PART-TERMINAL SHOW, EITHER BEFORE OR DURING THE EXHIBITION, UNLESS THE EXTRA-LABEL USAGE DRUG IS ADMINISTERED UNDER ALL OF THE FOLLOWING CONDITIONS:
  - (i) BY OR UNDER THE SUPERVISION OF A VETERINARIAN.
  - (ii) USED ONLY AS THE EXTRA-LABEL DIRECTIONS PROVIDED BY THE VETERINARIAN DESCRIBE.
  - (iii) WITH AN ESTABLISHED VETERINARIAN-CLIENT-PATIENT RELATIONSHIP.
  - (iv) FOR A VALID MEDICAL PURPOSE ONLY.
  - (v) THE TIMING OF DRUG WITHDRAWAL IS EXTENDED AS STATED BY THE PRESCRIBING VETERINARIAN ON THE LABEL AND CAN BE FOLLOWED WITHOUT RISK TO FOOD SAFETY.
- (j) ADMINISTRATION OR PERMITTING THE ADMINISTRATION OF A PRESCRIPTION, EXTRA-LABEL USAGE, OR OVER-THE-COUNTER DRUG TO LIVESTOCK, INTENDED FOR A NON-TERMINAL SHOW, EITHER BEFORE OR DURING THE EXHIBITION, UNLESS THE DRUG AS DESCRIBED IS ADMINISTERED UNDER ALL OF THE FOLLOWING CONDITIONS:
  - (i) BY OR UNDER THE SUPERVISION OF A VETERINARIAN, IF A PRESCRIPTION OR EXTRA-LABEL USAGE DRUG IS USED BY OR UNDER THE SUPERVISION OF THE EXHIBITOR OR OWNER, IF AN OVER-THE-COUNTER DRUG IS USED.
  - (ii) USE ONLY AS DIRECTED BY THE LABEL OR PRESCRIPTION.
  - (iii) WITH AN ESTABLISHED VETERINARIAN-CLIENT-PATIENT RELATIONSHIP.
  - (iv) FOR A VALID MEDICAL PURPOSE ONLY.
- (k) FOOD PRODUCTS OBTAINED FROM LIVESTOCK ADMINISTERED A DRUG SHALL NOT BE USED FOR HUMAN CONSUMPTION. AN EXAMPLE OF A FOOD PRODUCT INCLUDES MILK.

(3) THE EXHIBITOR IS RESPONSIBLE FOR ANY VIOLATION RELATED TO THE ADULTERATION OR POSSIBLE ADULTERATION OF LIVESTOCK OR FOOD PRODUCTS. A VIOLATION INCLUDES EITHER OF THE FOLLOWING:

(a) IMPROPER WITHDRAWAL TIMES FOLLOWED OR CONDEMNATION OF CARCASSES DUE TO VIOLATIVE DRUG RESIDUES.

(b) TAINTS AND PRODUCT QUALITY ISSUES.

**R 285.1605—Cleaning stalls and pens; grooming animals. DRUG TESTING OF EXHIBITION LIVESTOCK.**

~~Rule 605. An agricultural exhibitor shall keep his stalls and pens clean and well bedded. All animals shall be groomed for exhibit. In case of failure to do so, the manager may dismiss the agricultural exhibitor from the fairgrounds and the agricultural exhibitor shall forfeit all fees and premiums won.~~

(1) THE LIVESTOCK SUPERVISOR SHALL DEVELOP AN EXHIBITOR CODE OF CONDUCT AND PROJECT ANIMAL CERTIFICATION/CARE FORM FOR ALL ANIMAL EXHIBITORS.

(2) THE LIVESTOCK SUPERVISOR SHALL COLLECT AND RETAIN SIGNED ANIMAL CERTIFICATION FORMS FOR ALL ANIMAL EXHIBITORS ENTERED IN ANIMAL CLASSES.

(3) BOTH OF THE FOLLOWING PROVISIONS APPLY TO REQUIRED DRUG TESTING OF GRAND CHAMPIONS AND RESERVE GRAND CHAMPIONS:

(a) THE GRAND CHAMPION AND RESERVE GRAND CHAMPION FROM THE MARKET STEER, MARKET HOG, AND MARKET LAMB CLASSES ARE SUBJECT TO BLOOD, URINE, HAIR OR TISSUE TESTING.

(b) THE EXHIBITOR, PARENT, AND/OR GUARDIAN SHALL TAKE THE CHAMPION ANIMAL TO THE TESTING AREA IMMEDIATELY AFTER BEING NAMED CHAMPION.

(4) THE VETERINARIAN OR HIS OR HER DESIGNEE SHALL COLLECT URINE, BLOOD, TISSUE, AND OTHER TEST SAMPLES IN ACCORDANCE WITH THE DEPARTMENT'S PROTOCOL FOR THE COLLECTION OF LIVESTOCK TEST SAMPLES AT EXHIBITIONS. TEST SAMPLES MAY BE COLLECTED BEFORE, DURING, OR IMMEDIATELY AFTER A SHOW. DEVIATIONS FROM THE PROTOCOL SHALL BE NOTED.

(5) THE VETERINARIAN OR HIS OR HER DESIGNEE MAY COLLECT ANY URINE, BLOOD, TISSUE, OR OTHER TEST SAMPLES FROM THE EXHIBITION ANIMALS AT THE TIME OF SLAUGHTER.

(6) THE GENERAL MANAGER MAY DISQUALIFY ANY ANIMAL, EITHER LIVE OR SLAUGHTERED, FOUND TO BE IN VIOLATION OF THESE RULES PERTAINING TO THE USE OF DRUGS, CHEMICALS, FEED ADDITIVES OR ANY OTHER PORTION OF RULE 285.1604.

(7) BOTH OF THE FOLLOWING PROVISIONS APPLY TO RANDOM TESTING OF ANIMAL EXHIBITS:

AN ANIMAL ENTERED IN THE FAIR IS SUBJECT TO BLOOD, URINE, HAIR, OR TISSUE TESTING FOR JUST CAUSE AT THE DISCRETION OF THE MANAGER OR HIS OR HER DESIGNATED REPRESENTATIVE.

THE FAIR MANAGER MAY IMPLEMENT A RANDOM BLOOD, URINE, HAIR AND OR TISSUE TESTING PROGRAM.

(c) THE VETERINARIAN OR HIS OR HER DESIGNEE SHALL COLLECT URINE, BLOOD, TISSUE, AND OTHER TEST SAMPLES IN ACCORDANCE WITH THE DEPARTMENT'S PROTOCOL FOR THE COLLECTION OF LIVESTOCK TEST SAMPLES AT EXHIBITIONS. THE VETERINARIAN OR HIS OR HER DESIGNEE MAY COLLECT TEST SAMPLES BEFORE, DURING, OR IMMEDIATELY AFTER A SHOW. DEVIATIONS FROM THE PROTOCOL SHALL BE NOTED.

**(8) TESTING PROCEDURE**

(a) THE FAIR MANAGER SHALL PROVIDE NOTIFICATION TO EXHIBITORS OF ANIMALS THAT THOSE ANIMALS ARE SUBJECT TO BLOOD, URINE, HAIR, AND/OR TISSUE TESTING.

(i) BY PLACING AS GRAND OR RESERVE CHAMPION

(ii) FOR JUST CAUSE SUSPICION

(iii) AS PART OF A RANDOM TESTING PROGRAM

(b) THE GENERAL MANAGER SHALL ENSURE THAT IDENTIFICATION OF ANIMALS TESTED AND TEST SAMPLES BE ACCURATE.

(c) THE GENERAL MANAGER SHALL NOTIFY EXHIBITORS OF THE RESULTS FROM TESTING IN A TIMELY MANNER.

(d) THE NOTIFICATION AND PROCEDURE FOR TEST SAMPLE COLLECTIONS SHALL BE PRINTED IN THE PREMIUM BOOK.

**R 285.1606 ~~Feed and bedding.~~ TAMPERING OR SABOTAGE PROHIBITED.**

Rule 606. ~~The fair may furnish all feed for poultry, pigeons, rabbits, and covies and also the first feeding and bedding for livestock.~~ TAMPERING WITH OR SABOTAGING AN EXHIBIT, AS DEFINED IN R 285.1101, IS PROHIBITED.

**R 285.1607 ~~Purebred animals.~~ LIVESTOCK SALE.**

Rule 607. ~~Superintendents shall ascertain the name and registry number of all animals shown in purebred classes and these shall be shown on the judges' report sheets before payment of premium is made.~~ (1) AN EXHIBITOR WHO EXHIBITS LIVESTOCK AT A TERMINAL SHOW OR PARTIAL TERMINAL SHOW CONSENTS TO PARTICIPATE IN AN AUCTION SALE AS FOLLOWS:

(a) ALL BIDDERS AT AN AUCTION SALE FOLLOWING A TERMINAL SHOW OR PARTIAL TERMINAL SHOW SHALL CONSENT TO THE SLAUGHTER OF THE LIVESTOCK OR DELIVERY OF THE LIVESTOCK TO A LICENSED SALE OR SLAUGHTER FACILITY.

(b) TITLE TO LIVESTOCK SOLD AT AN AUCTION SALE AND SUBSEQUENTLY PRESENTED FOR SLAUGHTER OR SALE AT A LICENSED LIVESTOCK FACILITY SHALL REMAIN VESTED IN THE EXHIBITOR, OR, IF THE EXHIBITOR IS NOT THE OWNER THEN TITLE IS VESTED, IN THE OWNER UNTIL THE LIVESTOCK HAS BEEN PASSED BY INSPECTION.

(c) DURING INSPECTION OR TESTING, IF THE LIVESTOCK CARCASS IS PRELIMINARILY DETERMINED TO HAVE BEEN TAMPERED WITH OR FOUND TO

CONTAIN AN UNLAWFUL SUBSTANCE, THEN 1 OF THE FOLLOWING SHALL OCCUR:

(i) IF THE LIVESTOCK CARCASS MUST BE TRIMMED OR RECONDITIONED TO COMPLY WITH THE MEAT INSPECTION REQUIREMENTS, THEN THE CARCASS SHALL BE TRIMMED AND RECONDITIONED AND RELEASED TO THE EXHIBITOR, UNLESS THE SUCCESSFUL BIDDER ACCEPTS THE TRIMMED OR RECONDITIONED CARCASS.

(ii) IF THE LIVESTOCK CARCASS CANNOT BE TRIMMED OR RECONDITIONED, THEN THE LIVESTOCK CARCASS SHALL BE CONDEMNED IN ACCORDANCE WITH THE MEAT INSPECTION REQUIREMENTS.

(iii) IF TESTICULAR OR ACCESSING REPRODUCTIVE TISSUE IS FOUND, THEN THE ANIMAL SHALL BE DISQUALIFIED AND THE CARCASS RELEASED TO THE EXHIBITOR.

**~~R 285.1608 Delay in showing.~~**

~~— Rule 608. The superintendents of livestock departments may exclude an animal from all competition if there is unnecessary or embarrassing delay by the agricultural exhibitor in bringing the animal into the show ring. The agricultural exhibitor shall forfeit all fees and premiums won.~~

**R 285.1608 RESCINDED.**

**~~R 285.1609 Substitution of animals.~~**

~~— Rule 609. An animal in the same class may be substituted by an agricultural exhibitor for reasons satisfactory to the manager if the substitution is made on or before the day prior to the opening day of the fair, and if the animal substituted is owned by the agricultural exhibitor at the time entries close.~~

**R 285.1609 RESCINDED.**

**PART 7. COMMUNITY ARTS AND YOUTH EXHIBITORS**

**R 285.1701 Competition open to residents; exceptions.**

Rule 701. (1) Competition in the community arts and youth departments is open. ~~only to residents of the Upper Peninsula of Michigan, and~~ The community arts and youth exhibit shall be the work of the exhibitor and shall be shown in ~~such~~ THE exhibitor's name. ~~All such exhibits shall be owned by the community arts and youth exhibitor unless otherwise specified.~~

(2) ~~A person who teaches a home craft may not make an entry in that particular craft.~~ AN AMATEUR IS PERMITTED TO ENTER HIS OR HER WORK IN COMPETITION UNLESS OTHERWISE STATED. AN AMATEUR IS A PERSON WHO DOES NOT SELL FOR PROFIT ON A PART OR FULL-TIME BASIS AND WHOSE EXHIBIT REPRESENTS A RECREATIONAL HOBBY.

(3) ~~A community arts and youth exhibitor of flower arrangements and table settings shall not be engaged in the field of horticulture professionally.~~ A PROFESSIONAL IS A

PERSON WHO IS ENGAGED IN ACTIVITY FOR A MONETARY PROFIT OF MORE THAN \$2000.00 ANNUALLY AS A RESULT OF HIS OR HER CRAFT SKILL.

(4) AN EMPLOYEE OF THE UPPER PENINSULA STATE FAIR MAY NOT DIRECTLY OR INDIRECTLY EXHIBIT AN ARTICLE IN THIS SECTION.

**R 285.1702 Exhibit class qualifications.**

Rule 702. (1) All entries in each class of community arts and youth exhibits shall meet the qualification specified for each class.

(2) AN EXHIBITOR MAY MAKE AN entry ~~may be made~~ in each class listed, but THE FAIR MAY LIMIT a community arts and youth exhibitor ~~may be limited~~ as to the number of ~~entries in each~~ classes OR NUMBER OF ENTRIES HE OR SHE MAY ENTER.

(3) THE FAIR SHALL PRINT specific provisions for making entries ~~shall be printed~~ in the annual premium list for the community arts and youth departments.

**R 285.1703 Works of art.**

Rule 703. AN ARTIST MAY ENTER ~~Entry of~~ a work of art in each class, ~~by an artist may be allowed~~, but it shall be ~~one~~ A WORK OF ART not previously shown at the fair. The manager may reject an entry ~~which~~ THAT is fragile, unsuitable in size, or inconsistent with contemporary community standards.

**R 285.1704 Judges.**

Rule 704. (1) THE FAIR SHALL SELECT ~~Competent~~ judges ~~shall be selected~~ and their A JUDGE'S decision ~~shall be~~ IS final.

(2) In the absence of competition in a class, and if an article exhibited is inferior in quality or unworthy, THEN the judges shall award a prize or ribbon only if the entered article merits an award.

**R 285.1705 Formal protests.**

Rule 705. ~~A formal protest by~~ A community arts or youth exhibitor or others ~~shall be made in writing~~ SHALL MAKE A FORMAL PROTEST IN WRITING to the manager. THE PROTEST SHALL BE accompanied by an affidavit setting forth the grounds for the protest. A formal protest against a community arts and youth exhibit shall be filed not less than 24 hours before the judging and the manager shall hear ~~such~~ THE protest and make a decision before the judging. A formal protest against a placing shall be filed not more than 6 hours after the placing is made and shall be considered by the manager. ~~Parties interested~~ INTERESTED PARTIES shall be duly notified and ~~opportunity~~ given AN OPPORTUNITY ~~them~~ to submit evidence before a final decision pursuant to a procedure established by the director.

**PART 8. GAMES**

**R 285.1801 Games; ~~safety; unauthorized games; fairness; games of skill; requirements; rules and price; failure to comply.~~ OPERATION OF GAMES; GAMES LIMITED.**



Rule 801. (1) A CONTRACTOR OR VENDOR SHALL NOT OPERATE A game ~~shall not be operated~~ in a manner ~~which~~ THAT presents a hazard to the safety of a patron or the public in general. ~~nor shall equipment be used which is not~~ THE CONTRATOR OR VENDOR SHALL ENSURE THAT GAME EQUIPMENT IS in sound, safe operating condition. ~~No material~~ MATERIAL ~~shall be~~ used in the construction of a game ~~which is not~~ SHALL BE sufficient to meet its intended use. If the ~~Upper Peninsula state fair~~ manager feels that there is a hazard in ~~either~~ the operation of a game, the equipment used, or the construction of a game, or any part thereof, ~~such~~ THEN THE MANAGER SHALL CLOSE THE game ~~shall be closed~~ until corrections are made to the satisfaction of the manager. (2) Only games of skill ~~shall be~~ ARE permitted ~~and~~ TO BE operated on the Upper Peninsula state fairgrounds during the annual Upper Peninsula state fair. ~~No games~~ GAMES of chance, or games partly of skill and partly of chance, are ~~permitted~~ PROHIBITED on the grounds.

## **PART 9. HEARINGS**

### **R 285.1901 Complaint.**

Rule 901. ~~An interested party~~ A PARTY INTERESTED in a contested matter MAY REQUEST A HEARING AND shall submit ~~in writing to the director, with copies to the manager and the Upper Peninsula state fair board,~~ a WRITTEN comprehensive statement of the complaint, TO THE DIRECTOR, WITHIN 15 DAYS OF BECOMING AWARE OF THE CONTESTED ACTION.

### **R 285.1902 Procedure and rules.**

Rule 902. ~~Appropriate state and department procedures, rules, and regulations relating to hearings shall be followed.~~ NOTICE OF A HEARING BEFORE THE DIRECTOR OR A DESIGNATED HEARING OFFICER SHALL BE GIVEN BY REGISTERED MAIL. THE NOTICE SHALL STATE THE DATE, HOUR, PLACE, AND ISSUES INVOLVED. THE NOTICE SHALL BE MAILED NOT LESS THAN 30 DAYS BEFORE THE HEARING TO ALL INTERESTED PARTIES.

### **R 285.1903 Appearance.**

Rule 903. An appearance shall be made ~~either~~ in person, by a duly authorized representative, or by counsel. If a person who has been served with a notice of hearing fails to appear at ~~such~~ A hearing, THEN the hearing officer may proceed with a hearing of the matter brought before ~~it~~ HIM OR HER, and on the evidence presented, may make his OR HER decision.

### **R 285.1904 Adjournments and continuances.**

Rule 904. A hearing shall not be adjourned or continued, except upon order of the director or ~~his agent~~ THE HEARING OFFICER conducting the hearing. A motion or request of adjournment or a continuance shall be in writing and state concisely the reasons ~~why an~~ FOR adjournment or continuance. ~~is necessary~~ The motion or request shall not be considered unless it is filed with the ~~director~~ DEPARTMENT not less than ~~3~~ 10 days before the date assigned for the hearing. ~~except upon order of the board, which exception shall be~~

~~granted only upon a showing that for reasons not within the control of the person making the motion or request, the motion or request could not be filed within the time limit.~~

**R 285.1905 Depositions.**

Rule 905. A deposition shall be taken only upon written permission of the ~~director~~ HEARING OFFICER ~~if WHERE~~ it is proved in writing to the ~~director~~ DEPARTMENT that it is impractical or impossible to otherwise obtain the evidence. A deposition shall be taken ~~pursuant to~~ UNDER the general court rules of this state for taking depositions in civil cases, ~~with~~ AND all parties SHALL BE ~~being~~ given an opportunity to cross-examine the A DEPOSED witness under oath.

**R 285.1906 Answers, briefs, and arguments.**

Rule 906. A person who has been served with a notice of hearing may file a written answer before the date set for hearing, or ~~at the hearing~~ may appear AT THE HEARING and present an oral statement on the charges contained in the notice of hearing. If written briefs or arguments are presented, THEN a copy shall be served on the ~~manager, who shall accept service on behalf of the director~~ DEPARTMENT and upon opposing parties, not less than ~~4~~ 10 days before the date set for the hearing.

**R 285.1907 Stipulations CONDUCTING A HEARING.**

Rule 907. ~~The parties to a hearing, by a stipulation in writing filed with the director, may agree upon any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing. Parties are requested to agree upon the facts when practicable.~~ THE HEARING OFFICER SHALL CONDUCT THE HEARING IN ACCORDANCE WITH 1969 PA 306, MCL 24.201 ET SEQ.

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NOTICE OF PUBLIC HEARING

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**DEPARTMENT OF AGRICULTURE**  
**FAIRS, EXHIBITIONS AND RACING DIVISION**

**ORR # 2000-039**

The Michigan Department of Agriculture, Fairs, Exhibitions and Racing Division, will conduct a public hearing on proposed amendments to Regulation No. 852, Upper Peninsula State Fair. The current rule is out of date and updating and deletion of unnecessary requirements are needed. Current livestock shows, practices, and animal health issues necessitate an update of exhibition standards. Business standards and exhibition requirements have drastically changed and addition of rules to govern livestock standard drug testing is also needed.

The public hearing will be held on Wednesday, August 15, 2001, beginning at 3:00 p.m. at the Terrace Bay Inn, Embers Room, 7146 P Road, Gladstone, MI.

The proposed rules (identified as ORR 2000-039AC) can be downloaded from the Internet through the Office of Regulatory Reform at <http://www.migov.state.mi.us/rules/orr>. Copies of the proposed rules may be obtained by contacting:

Fairs, Exhibitions and Racing Division  
Michigan Department of Agriculture  
PO Box 30017  
Lansing, Michigan 48909  
Telephone: (517) 241-2529  
Fax: (517) 241-4217  
E-mail: [devins@state.mi.us](mailto:devins@state.mi.us)

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to Fairs, Exhibitions and Racing Division, Michigan Department of Agriculture, at the address above. Written comments must be received by August 10, 2000.

Persons needing accommodations for effective participation in the meeting should contact the Fairs, Exhibitions and Racing Division, at (517) 241-2529, a week in advance to request mobility, visual, hearing, or other assistance.

Promulgation of these rules is pursuant to the authority conferred on the commission of agriculture by sections 1 and 4 of Act 89 of the Public Acts of 1927, as amended, and sections 7, 9, 276, and 286 of Act No. 380 of the Public Acts of 1965, being §285.141, 285.144, 16.107, 16.109, and 16.286 of the Michigan Compiled Laws. These rules become effective 15 days after filing with the Secretary of State.

Dan Wyant, Director

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PROPOSED ADMINISTRATIVE RULES

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**CONSTRUCTION SAFETY STANDARDS**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order No. 1996-2, MCL 408.1019, 408.1021, and 445.2001)

R 408.41401, R 408.41455, R 408.41456, R 408.41461, R 408.41462, R 408.41463, R 408.41464, R 408.41465, R 408.41466, R 408.41467, R 408.41471, R 408.41472, R 408.41474, R 408.41475, R 408.41476, R 408.41477, R 408.41478, R 408.41479, R 408.41481, and R 408.41483 of the Michigan Administrative Code are amended and R 408.41454 of the Code is rescinded as follows:

**PART 14. TUNNELS, SHAFTS, CAISSONS, AND COFFERDAMS**

**R 408.41401 Scope.**

Rule 1401. This part applies to the construction, modification, and major repair of tunnels, shafts, caissons, CHAMBERS, PASSAGEWAYS, and cofferdams, any other aspect of tunnel construction, and the use and maintenance of equipment. This part does not apply to routine maintenance of an existing structure; EXCAVATION AND TRENCHING OPERATIONS AS PRESCRIBED BY R 408.40901 ET SEQ., CONSTRUCTION SAFETY STANDARD PART 9 'EXCAVATION, TRENCHING AND SHORING;' NOR UNDERGROUND ELECTRICAL TRANSMISSION AND DISTRIBUTION LINES AS PRESCRIBED IN R 408.41601 ET SEQ., CONSTRUCTION SAFETY STANDARD PART 16 'POWER TRANSMISSION AND DISTRIBUTION.' THIS SECTION ALSO APPLIES TO CUT-AND-COVER EXCAVATIONS WHICH ARE BOTH PHYSICALLY CONNECTED TO ONGOING UNDERGROUND CONSTRUCTION OPERATIONS WITHIN THE SCOPE OF THIS SECTION AND COVERED IN SUCH A MANNER AS TO CREATE CONDITIONS CHARACTERISTIC OF UNDERGROUND CONSTRUCTION.

**R 408.41454 RESCINDED.**

~~R 408.41454 Applicability.~~

~~Rule 1454. (1) All rules in this part shall apply to a tunnel, a shaft, a caisson, or a cofferdam, except that a free air tunnel that is less than 225 feet in length is excepted from the provisions of R 408.41464(1).~~

~~(2) An unoccupied auger or pipe jacking tunnel is excepted from the rules of this part pertaining to tunnels.~~

~~(3) An occupied auger or pipe jacking tunnel shall not be subject to the rules of this part that pertain to tunnels, except for the requirements of R 408.41471(7) and the requirements of R 408.41471(8) that pertain to lifelines.~~

~~(2) An occupied auger or pipe jacking tunnel shall be monitored for air quality immediately before entering the tunnel and during the period of occupancy in the tunnel.~~

**R 408.41455 Definitions; A to C. H.**

Rule 1455. (1) "Atmospheric pressure" means the pressure of air at sea level, usually 14.7 p.s.i.a. (1 atmosphere) or zero p.s.i.g.

(2) "Auger tunnel" means ~~that~~ A tunnel ~~which~~ THAT is excavated by use of a continuous flight auger system, with or without a sleeve or other type of liner.

(3) "Bulkhead" means ~~a structure which is used to separate one area from another.~~ AN AIRTIGHT STRUCTURE SEPARATING THE WORKING CHAMBER FROM FREE AIR OR FROM ANOTHER CHAMBER UNDER A LESSER PRESSURE THAN THE WORKING PRESSURE.

(4) "Caisson" means either a generally vertical foundation unit below grade or a chamber placed in the ground or water for the purpose of excavating earth AND IN WHICH IT IS POSSIBLE FOR A PERSON TO WORK UNDER AIR PRESSURE GREATER THAN ATMOSPHERIC PRESSURE TO EXCAVATE MATERIAL BELOW WATER LEVEL.

(5) "Cofferdam" means a temporary structure used to control the flow of water and other material during construction operations.

(6) "Compressed air" means ~~that~~ AN environment ~~which~~ THAT has a pressure greater than atmospheric pressure.

(7) "DECANTING" MEANS A METHOD USED FOR DECOMPRESSING UNDER EMERGENCY CIRCUMSTANCES. IN THIS PROCEDURE, THE EMPLOYEES ARE BROUGHT TO ATMOSPHERIC PRESSURE WITH A VERY HIGH GAS TENSION IN THE TISSUES AND THEN IMMEDIATELY RECOMPRESSED IN A SECOND AND SEPARATE CHAMBER OR LOCK.

(8) "EMERGENCY LOCK" MEANS A LOCK DESIGNED TO HOLD AND PERMIT THE QUICK PASSAGE OF AN ENTIRE SHIFT OF EMPLOYEES.

(9) "HIGH AIR" MEANS AIR PRESSURE USED TO SUPPLY POWER TO PNEUMATIC TOOLS AND DEVICES.

**R 408.41456 Definitions; M to W.**

Rule 1456. (1) "Man lock" means a chamber through which employees pass from 1 air pressure environment into another.

(2) "MATERIALS LOCK" MEANS A CHAMBER THROUGH WHICH MATERIALS AND EQUIPMENT PASS FROM ONE AIR PRESSURE ENVIRONMENT INTO ANOTHER.

(3) ~~(2)~~ "Occupied tunnel" means any tunnel entered by 1 or more employees.

- (4) (3) "Pressure" means a force acting on a unit area, usually shown as pounds per square inch (p.s.i.).
- (5) (4) "Qualified employee" means one who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.
- (6) (5) "Safety screen" means an airtight and watertight diaphragm placed vertically across the upper part of a compressed air tunnel between the face and bulkhead in order to restrain sudden flooding of the crown of the tunnel between the safety screen and the bulkhead, thus providing a means of refuge and exit from a flooding or flooded tunnel.
- (7) (6) "Shaft" means a vertical or inclined opening excavated below ground level.
- (8) (7) "Tunnel" means a generally horizontal excavation or facility more than 14 inches in diameter, width, or height and more than 6 feet in length below ground or water. Facilities used for the acquisition of minerals, ores, and fossil fuels, which are commonly known as mines, are excluded from this definition.
- (9) (8) "Working chamber" means the space or compartment under air pressure in which the work is being done.

**R 408.41461 Advance notice of tunnel excavation.**

Rule 1461. (1) Before the start of a tunnel, as defined IN R 408.41456, WHICH IS 24 inches or more in diameter, height or width, AND which will be occupied by an employee, a report prepared by the employer performing the tunnel excavation shall be sent to the Michigan Department of Consumer and Industry Services, Construction Safety Division, 7150 Harris Drive, P.O. Box 30015 30645, Lansing, Michigan 48909-8145, ~~and the Michigan Department of Public Health, Occupational Health Division, P.O. Box 30035, 3500 N. Logan, Lansing, Michigan 48909,~~ in addition to the following civil authorities in the area: hospital, police department, fire department, and sheriff department. The report shall contain ALL OF the following information:

- (a) Name of contractor or contractors.
  - (b) Starting date.
  - (c) Length of tunnel.
  - (d) Diameter of cut.
  - (e) Finished diameter.
  - (f) Number of shafts.
  - (g) Depth of shafts.
  - (h) Location of shafts.
  - (i) Method of tunneling.
  - (j) Maximum working pressure in tunnel or shaft.
  - (k) Type of primary liner.
  - (l) Number of shifts.
  - (m) Projected completion date.
  - (n) Projected maximum work force within tunnel.
- (2) ~~All~~ Parties notified pursuant to subrule (1) of this rule shall be notified when the work has been completed.
- (3) If, after the start of any tunnel project, a tunnel or shaft that the employer has shown to be constructed, modified, or repaired under atmospheric conditions requires the tunnel to be

pressurized, THEN the employer shall notify the CONSTRUCTION SAFETY DIVISION AT THE Michigan departments of consumer and industry services, ~~and health~~, 7150 HARRIS DRIVE, P.O. BOX 30645, LANSING, MICHIGAN 48909-8145, 24 hours ~~prior to~~ BEFORE allowing the employees to enter the tunnel.

(4) If the work operations of any occupied tunnel projects are discontinued for 30 consecutive days or longer, THEN the general contractor shall notify the CONSTRUCTION SAFETY DIVISION AT THE Michigan departments of consumer and industry services, ~~and health~~ 24 hours before resuming work operations on the tunnel project.

**R 408.41462 Safety generally.**

Rule 1462. (1) ONCOMING SHIFTS SHALL BE INFORMED OF ANY HAZARDOUS OCCURRENCES OR CONDITIONS THAT HAVE AFFECTED OR MIGHT AFFECT EMPLOYEE SAFETY, INCLUDING LIBERATION OF GAS, EQUIPMENT FAILURES, EARTH OR ROCK SLIDES, CAVE-INS, FLOODINGS, FIRES, OR EXPLOSIONS.

(2) ~~(4)~~ A safe means of egress and access to all work areas shall be provided and maintained free of hazards.

(3) ~~(2)~~ Form scrap material, lumber that has protruding nails, and all other debris shall be kept cleared from the work areas, passageways, stairs, locks, and change houses.

(4) ~~(3)~~ Combustible debris shall be removed daily during the course of construction.

(5) ~~(4)~~ When a haulage roadbed consists of track and ~~wood~~ ties, a walkway shall be provided. The walkway shall be a minimum of 2 2-inch planks, side by side, abutted, joined, and secured to a tie or other equivalent means. If space is not adequate for 2 2-inch by 10-inch planks, THEN the walkway shall be as wide as space permits.

(6) ~~(5)~~ When work is not being performed, access to an underground opening shall be covered, bulkheaded, fenced off, or restricted by gates or doors and appropriately posted.

(7) ~~(6)~~ Any section of tunnel that is not in use shall be barricaded to prevent ingress by an unauthorized employee.

(8) ~~(7)~~ Construction of a trench, manhole, or other opening for use in a tunnel or shaft operation shall be as prescribed in R 408.40901 ET SEQ., ~~the construction safety standards commission standards~~ part 9 'Excavation, Trenching, and Shoring' and R 408.44501 ET SEQ., CONSTRUCTION SAFETY STANDARD part 45 'Fall Protection.' ~~being R 408.40901 et seq. and R 408.44501 et seq., respectively, of the Michigan Administrative Code.~~

(9) ~~(8)~~ The power source to a tunneling machine shall be disconnected or locked out when an employee is working in the area of the cutting head or performing maintenance work on the tunneling machine where motion could cause an injury.

(10) ~~(9)~~ An area subject to subsidence that is hazardous to an employee shall be fenced and appropriately posted.

(11) ~~(10)~~ Each operation shall have a check-in and check-out system that will provide positive identification of an employee by number or name and will identify the location of each employee who is underground. An accurate record shall be kept on the surface. However, a check-in and check-out system is not required when the construction of underground facilities that are designed for human occupancy has been completed so that



the permanent environmental controls are effective and the remaining construction activity will not cause any environmental hazard or structural failure within the facilities.

(12) ~~(11)~~ A ladder or stairway that is provided in a shaft, caisson, or steep incline shall be as prescribed in R 408.41101 ET SEQ., ~~the construction safety standards commission standards~~ part 11 'FIXED AND PORTABLE Ladders' and R 408.42101 ET SEQ., CONSTRUCTION SAFETY STANDARD part 21 'Guarding of Walking and Working Areas.' ~~being R 408.41101 et seq. and R 408.42101 et seq., respectively, of the Michigan Administrative Code.~~

(13) ~~(12)~~ Each AN employer shall establish and coordinate with the employees an accident prevention program and a safety training program as prescribed in R 408.40101 ET SEQ., ~~the construction safety standards commission standard~~ part 1 'General Rules.' ~~being R 408.40101 et seq. of the Michigan Administrative Code.~~

(14) ~~(13)~~ All employees shall be instructed in the recognition and avoidance of hazards that are associated with all of the following underground construction activities:

- (a) Air monitoring.
- (b) Ventilation.
- (c) Illumination.
- (d) Communications.
- (e) Flood control.
- (f) Mechanical equipment.
- (g) Personal protective equipment.
- (h) Explosives.
- (i) Fire prevention and protection.
- (j) Emergency procedures, including evacuation plans and check-in and check-out systems.

(15) ~~(14)~~ Each employee shall be issued a copy of the project's general safety rules before an employee commences work at the project.

(16) ~~(15)~~ Each employer shall designate a qualified employee who is responsible for administering the safety program. A written record shall be maintained of the safety training program.

(17) ~~(16)~~ Before an employee enters a tunnel where the atmosphere might be hazardous due to a condition such as a deficiency of oxygen, or might be toxic in excess of the maximum allowable limits, the tunnel shall be tested and the results shall be recorded AS PRESCRIBED IN R 325.62991 ET SEQ., OCCUPATIONAL HEALTH STANDARD PART 665 'UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR.' The records shall be maintained at the jobsite. If the atmosphere is hazardous, either sufficient ventilation to eliminate the hazard shall be provided or respiratory equipment as prescribed by the department of consumer and industry services shall be worn.

(18) ~~(17)~~ If an atmosphere is found to be explosive, THEN sparks, flame, and other sources of ignition shall be prohibited and ventilation shall be provided until the hazard has been reduced and maintained at or below the maximum allowable limits as prescribed by the department of consumer and industry services.

(19) AN OCCUPIED AUGER OR PIPE JACKING TUNNEL SHALL BE MONITORED FOR AIR QUALITY IMMEDIATELY BEFORE ENTERING THE TUNNEL AND DURING THE PERIOD OF OCCUPANCY IN THE TUNNEL.

**R 408.41463 Emergency provisions; plans; equipment; rescue crews.**

Rule 1463. (1) A plan to evacuate a tunnel in an emergency and the procedures to carry out the plan shall be developed and made known to the employees and to the rescue team.

(2) An employer shall ensure that rescue teams are familiar with conditions at the jobsite.

(3) On jobsites where 25 or more employees work underground at one time, an employer shall provide, or make arrangements in advance with locally available rescue services to provide, not less than 2 5-person rescue teams. One of the teams shall be on the jobsite or within 1/2 hour of travel time from the entry point and the other team shall be within 2 hours of travel time from the entry point.

(4) On jobsites where less than 25 employees work underground at one time, an employer shall provide, or make arrangements in advance with locally available rescue services to provide, at least 1 5-person rescue team. The team shall either be on the jobsite or be within 1/2 hour of travel time from the entry point.

(5) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using self-contained breathing apparatus monthly.

(6) An emergency hoisting facility, such as a mud box or a crane, shall be readily available at a shaft that is used as a means of egress, unless a hoisting means is provided that is independent of an electrical power failure. THE HOISTING MEANS SHALL BE DESIGNED SO THAT THE LOAD HOIST DRUM IS POWERED IN BOTH DIRECTIONS OF ROTATION AND SO THAT THE BRAKE IS AUTOMATICALLY APPLIED UPON POWER RELEASE OR FAILURE.

~~(7) A self-contained breathing apparatus, as prescribed in subparts A to H of 30 C.F.R. parts 0-199, mineral resources, 1988 edition, shall contain, at a minimum, a 5-minute air supply and shall be provided by the employer, at no expense to the employee, to each employee and kept readily available in all underground areas where an employee might be exposed to smoke or gas hazards.~~

(7) ~~(8)~~ The provisions of THE CODE OF FEDERAL REGULATIONS, TITLE 30, MINERAL RESOURCES, REVISED JULY 1, 2000: PART 1-199, ~~30 C.F.R. parts 0-199, Mineral Resources, 1988 edition,~~ are adopted by reference in this rule. ~~and may be inspected at the Lansing office of the department of consumer and industry services.~~ The provisions may be purchased at a cost at the time of adoption of these rules of \$38.00 ~~\$20.00~~ from the United States Government Bookstore, Patrick V. McNamara Federal Building, Suite 160, 477 Michigan Avenue, Detroit, Michigan 48226; WEB-SITE [HTTP://BOOKSTORE.GPO.GOV](http://BOOKSTORE.GPO.GOV); or FOR REVIEW AT THE MIOSHA STANDARDS DIVISION, ~~from the~~ Michigan Department of Consumer and Industry Services, 7150 Harris Drive, P.O. Box ~~30015~~ 30643, Lansing, Michigan 48909-8143.

~~(8) (9)~~ Self-contained breathing apparatus shall be maintained in good operating condition. Employees shall be trained in its use.

~~(9) (10)~~ There shall be a rescue crew for each shift of all underground operations. The rescue crew shall be trained in rescue procedures, the use and limitations of a breathing apparatus, and the use of fire fighting equipment. The crews shall be retrained at least once each year. Local fire and police personnel may be used as rescue teams for tunnel operations. If local personnel are to be used, THEN the employer shall arrange for such assistance before the start of the project.

- (10) ~~(11)~~ The following minimum rescue equipment shall be provided at the top of the shaft:
- (a) Four units of 1/2-hour-rated, air-supplied respirators.
  - (b) Four additional units of 1/2-hour-rated air bottles.
  - (c) Four bureau of mines flashlights or lanterns with additional batteries for each light. The flashlights shall be as prescribed in part 20 of subchapter B of THE PROVISIONS OF THE CODE OF FEDERAL REGULATIONS, TITLE 30, MINERAL RESOURCES, REVISED JULY 1, 2000: PART 1-199, ~~30 C.F.R. parts 0-199, mineral resources, 1988 edition~~, which is adopted by reference in subrule (7) ~~(8)~~ of this rule.
  - (d) Two 2A-10BC fire extinguishers.
  - (e) One stretcher, wire basket type with slings attached.
  - (f) One fire blanket.
  - (g) One 10-ton hand hydraulic rescue kit.
  - (h) One first aid kit as prescribed ~~by the department of public health.~~ IN R 408.40101 ET SEQ., CONSTRUCTION SAFETY STANDARD PART 1 'GENERAL RULES.'
- (11) ~~(12)~~ At least 1 employee shall be on duty above ground when an employee is working underground. The primary duty of the employee who is above ground shall be to secure immediate aid for an employee who is underground in case of an emergency.

**R 408.41464 Communication system; location; signals.**

Rule 1464. (1) In a tunnel that is more than 225 feet long, a communication system shall be provided at all of the following locations:

- (a) The working face.
  - (b) The top of the shaft.
  - (c) The bottom of the shaft.
  - (d) The hoisting station, if provided.
  - (e) Each 1,000 feet of tunnel.
  - (f) The office, if provided. A public telephone or other communication system shall be provided or available to each tunnel project to secure outside emergency help.
  - (g) HOIST OPERATORS SHALL BE PROVIDED WITH A CLOSED-CIRCUIT VOICE COMMUNICATION SYSTEM TO EACH LANDING STATION. THE SYSTEM SHALL HAVE SPEAKER MICROPHONES LOCATED SO THAT THE OPERATOR CAN COMMUNICATE WITH INDIVIDUAL LANDING STATIONS DURING HOIST USE.
- (2) An employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees who are underground.
- (3) If a tunnel is pressurized, THEN all of the following additional locations shall also be provided with a communication system:
- (a) The working chamber side of the manlock near the door.
  - (b) The interior of all locks.
  - (c) The lock attendant's station.
  - (d) The compressor plant.
  - (e) The first aid station. ~~However, if a gassy condition exists, all phones that are located within the tunnel shall conform to the United States bureau of mines schedule 9B, which is adopted in this rule by reference and which may be inspected at the Lansing office of the department of consumer and industry services. This schedule may be purchased as~~

~~indicated in R 408.41463(8). The telephone or other signal communication systems shall be independent of the tunnel power supply and shall be installed so that the use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.~~

(4) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary thereafter, to ensure that they are in working order.

(5) An employee who works alone underground in a hazardous location and who is both out of the range of natural unassisted voice communication and not under observation by other persons shall be provided with an effective means of obtaining assistance in an emergency.

(6) For an occupied pipe jacking tunnel that is more than 225 feet long, there shall be a telephone or other signal communication system established between the working face, the shaft tunnel portal, and at least 1 location on the surface.

(7) When a hoist house is provided, there shall be a second independent method of signaling, either audibly or visibly, to the hoist engineer from all landings in the shaft or slope.

(8) A signal code for hoisting shall be posted prominently in the engine house and at all places where signals are given. The signal code shall be as prescribed in ~~rule 2222 of the R 408.41001 ET SEQ., construction safety standards commission standard, part 10 'LIFTING AND DIGGING EQUIPMENT,' 22 'Signals, Signs, Tags, and Barricades,' being R 408.42222 of the Michigan Administrative Code.~~

(9) IF A GASSY CONDITION EXISTS, THEN ALL PHONES THAT ARE LOCATED WITHIN THE TUNNEL SHALL CONFORM TO THE UNITED STATES BUREAU OF MINES SCHEDULE 9B, PART 23 OF THE PROVISIONS OF THE CODE OF FEDERAL REGULATIONS, TITLE 30, MINERAL RESOURCES, REVISED JULY 1, 2000; PART 1-99, WHICH ARE ADOPTED BY REFERENCE IN THIS RULE. THE PROVISIONS MAY BE PURCHASED AS INDICATED IN R 408.41463(7). THE TELEPHONE OR OTHER SIGNAL COMMUNICATION SYSTEMS SHALL BE INDEPENDENT OF THE TUNNEL POWER SUPPLY AND SHALL BE INSTALLED SO THAT THE USE OR DISRUPTION OF ANY ONE PHONE OR SIGNAL LOCATION WILL NOT DISRUPT THE OPERATION OF THE SYSTEM FROM ANY OTHER LOCATION.

#### **R 408.41465 Protective clothing or equipment.**

Rule 1465. (1) Protective clothing or equipment shall be required to be used as prescribed in R 408.40601 ET SEQ., ~~the construction safety standards commission standard, part 6 'Personal Protective Equipment.' being R 408.40601 et seq. of the Michigan Administrative Code.~~

(2) An employee working in a wet shaft, tunnel, or caisson shall wear safety toe rubber boots ~~with WHICH HAVE~~ flat gripper-type soles AND WHICH ARE provided ~~for~~ by the employer, at no expense to the employee.

(3) An employee working in a shaft, tunnel, or caisson shall wear a protective helmet, ~~a protective helmet required by subrule (3) of this rule~~ WHICH shall be provided for and as prescribed in R 408.40601 ET SEQ., ~~the construction safety standards commission standard, Part 6 'Personal Protective Equipment.' being R 408.40601 et seq. of the Michigan Administrative Code.~~

**R 408.41466 Electrical requirements.**

Rule 1466. (1) A power line shall be well separated or insulated from water lines, telephone lines, and air lines.

(2) Lighting circuits shall be located so that the movement of personnel or equipment will not damage the circuits or disrupt service.

(3) Electrical equipment and wiring shall be installed and maintained as prescribed in the provisions of subparts F to J of part 77 of THE PROVISIONS OF THE CODE OF FEDERAL REGULATIONS, TITLE 30, MINERAL RESOURCES, REVISED JULY 1, 2000: PART 1-199, ~~30 C.F.R. parts 0-199, mineral resources, 1988 edition,~~ which are adopted ~~in this rule~~ by reference IN THIS RULE. THE PROVISIONS MAY BE PURCHASED AS INDICATED IN R 408.41463(7). ~~and which may be inspected at the Lansing office of the department of consumer and industry services. The provisions may be purchased at a cost as of the time of adoption of these rules of \$20.00 from the United States Government Bookstore, Patrick V. McNamara Federal Building, Suite 160, 477 Michigan Avenue, Detroit, Michigan 48226, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30015, Lansing, Michigan 48909.~~ The provisions of subparts F to J are adopted by reference with the following amendments:

(a) Article 305-1(a) is amended to read as follows: Temporary electrical power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities which are located at ground level and which are part of facilities used for the construction of tunnels, shafts, and cofferdams.

(b) Article 310-15, is amended to read as follows: The maximum continuous ampacities for copper, aluminum, and copper-clad aluminum conductors shall be as specified in table 310-16 to 310-19 and accompanying notes 1 to 12. Power and lighting circuits may be loaded to the maximum design temperatures of the wire or cable insulation under the following conditions:

(i) A means shall be provided to disconnect the load if the feeder cable exceeds design temperature by more than 10% for 1 minute.

(ii) Power cable shall have a grounding and a pilot wire that conforms to the Insulated Power Cable Engineers Association (IPCEA) type G grounded cable (G-GC) or equivalent.

(iii) Power cable shall have a loose connector emergency shutdown ability.

(iv) Power cable shall have a ground fault emergency shutdown ability.

(v) Power cable shall have an arc between phases emergency shutdown ability.

(c) OIL FILLED TRANSFORMERS SHALL NOT BE USED UNDERGROUND UNLESS THEY ARE LOCATED IN A FIRE-RESISTANT ENCLOSURE SUITABLY VENTED TO THE OUTSIDE AND SURROUNDED BY A DIKE TO RETAIN THE CONTENTS OF THE TRANSFORMER IN THE EVENT OF RUPTURE.

(4) All electrical power circuits that supply portable or hand-held tools, lights, or equipment shall be protected by approved ground-fault interrupters as PRESCRIBED ~~provided~~ in R 408.41701 ET SEQ., the construction safety ~~standards commission~~ standard, Part 17 'Electrical Installations.' ~~being R 408.41701 et seq. of the Michigan Administrative Code.~~

(5) The regular system of illumination shall be supplemented by lighting that can be activated upon the failure of the regular system. Supplemental lighting, such as approved flashlights or lanterns, shall be sufficient to allow all employees to evacuate the tunnel.

(6) A tunnel excavating machine that is built and designed after 1977 shall conform to the provisions of THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD NFPA 70: STANDARD FOR 'NATIONAL ELECTRICAL CODE,' 1999 EDITION, AS ADOPTED BY REFERENCE IN THIS RULE. THIS STANDARD IS AVAILABLE FROM GLOBAL ENGINEERING DOCUMENTS, 15 INVERNESS WAY EAST, ENGLEWOOD, COLORADO 80112; TELEPHONE NUMBER 1-800-854-7179; WEB-SITE WWW.GLOBAL.IHS.COM; AT A COST AS OF THE TIME OF ADOPTION OF THESE AMENDATORY RULES OF \$98.00 OR FOR REVIEW AT THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, MIOSHA STANDARDS DIVISION, 7150 HARRIS DRIVE, P.O. BOX 30643, LANSING, MICHIGAN 48909-8143. ~~be in compliance with the provision article 501, class I, division 2, of the national electrical code 70-1978, which are adopted by reference in this rule and which may be inspected at the Lansing office of the department of consumer and industry services. The code may be purchased at a cost as of the time of adoption of these rules of \$6.25 from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30015, Lansing, Michigan 48909.~~

(7) A tunnel excavating machine that is designed and built after 1977 shall be equipped with a limit switch to prevent the accidental rotation of the main structure of the machine.

(8) ELECTRICAL INSTALLATION IN UNDERGROUND AREAS WHERE OIL, GREASE, OR DIESEL FUEL ARE STORED SHALL BE USED ONLY FOR LIGHTING FIXTURES.

(9) LIGHTING FIXTURES IN STORAGE AREAS, OR WITHIN 25 FEET (7.62 METERS) OF UNDERGROUND AREAS WHERE OIL, GREASE, OR DIESEL FUEL ARE STORED, SHALL BE APPROVED FOR CLASS I, DIVISION 2 LOCATIONS, AS PRESCRIBED IN R 408.41701 ET SEQ., CONSTRUCTION SAFETY STANDARD PART 17 'ELECTRICAL INSTALLATION.'

#### **R 408.41467 Fire prevention and protection.**

Rule 1467. (1) The applicable requirements for fire prevention and protection AS PRESCRIBED ~~specified in R 408.41801 ET SEQ., the construction safety standards commission standard Part 18 'Fire Prevention and Protection.' being R 408.41801 et seq. of the Michigan Administrative Code,~~ shall be complied with in all tunnel and shaft operations.

(2) Smoking and open flames ~~shall be~~ ARE prohibited. AN EMPLOYER IS RESPONSIBLE FOR COLLECTING ALL PERSONAL SOURCES OF IGNITION, SUCH AS MATCHES AND LIGHTERS, FROM ALL PERSONS. Welding and cutting, where required, shall be in compliance with the provisions of subrules (9), (10), (11), ~~and~~ (12), AND (13) of this rule. A FIRE WATCH SHALL BE MAINTAINED WHEN HOT WORK IS PERFORMED.

(3) Not more than a 1-day supply of diesel fuel shall be stored in a tunnel or shaft. Gasoline or liquefied petroleum gas shall not be taken in a tunnel or shaft. ACETYLENE OR

METHYLACETYLENE PROPADIENE STABILIZED GAS MAY BE USED UNDERGROUND SOLELY FOR WELDING, CUTTING, AND OTHER HOT WORK AND ONLY AS PRESCRIBED IN R 408.40701 ET SEQ., CONSTRUCTION SAFETY STANDARD PART 7 'WELDING AND CUTTING.'

(4) The piping of diesel fuel from the surface to an underground location is permitted only if all of the following provisions are complied with:

(a) Diesel fuel is contained at the surface in a tank with a maximum capacity that is not more than the amount of fuel required to supply, for a 24-hour period, the equipment ~~which~~ THAT is serviced by the underground fueling station.

(b) The surface tank is connected to the underground fueling station of an acceptable pipe or hose system that is controlled at the surface by a valve and at the shaft bottom by a hose nozzle.

(c) The pipe is empty at all times, except when transferring diesel fuel from the surface tank to a piece of equipment in use underground.

(d) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(e) Acetylene, liquefied petroleum gas, and methylacetylene propadiene stabilized gas may be used underground only for welding, cutting, and other hot work and only in accordance with the provisions of subrules (9), (10), (11), ~~and~~ (12), AND (13) of this rule. NOT MORE THAN THE AMOUNT OF FUEL GAS AND OXYGEN CYLINDERS NECESSARY TO PERFORM WELDING, CUTTING, OR OTHER HOT WORK DURING THE NEXT 24-HOUR PERIOD SHALL BE PERMITTED UNDERGROUND.

(f) NOT MORE THAN THE AMOUNT OF FUEL GAS AND OXYGEN CYLINDERS NECESSARY TO PERFORM WELDING, CUTTING, OR OTHER HOT WORK DURING THE NEXT 24-HOUR PERIOD SHALL BE PERMITTED UNDERGROUND.

(5) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(6) Oil, grease, or DIESEL fuel that is stored in a tunnel or shaft shall be kept in tightly sealed containers in fire-resistant areas at safe distances from explosives, magazines, electrical installations, and shaft stations. ELECTRICAL INSTALLATIONS IN UNDERGROUND AREAS WHERE OIL, GREASE, OR DIESEL FUEL ARE STORED SHALL BE USED ONLY FOR LIGHTING FIXTURES. LIGHTING FIXTURES IN STORAGE AREAS, OR WITHIN 25 FEET (7.62 METERS) OF UNDERGROUND AREAS WHERE OIL, GREASE, OR DIESEL FUEL ARE STORED, SHALL BE APPROVED FOR CLASS I, DIVISION 2 LOCATIONS.

(7) Fire-resistant hydraulic fluids shall be used in hydraulically actuated underground machinery and equipment. For the purpose of this requirement, a fire-resistant hydraulic fluid ~~shall~~ meanS any liquid which has a flash point above 200 degrees Fahrenheit and which has a vapor pressure of not more than 40 p.s.i. (absolute) at 100 degrees Fahrenheit.

(8) An approved ~~2A-10BC~~ 4A:40B:C RATING fire extinguisher or equivalent protection shall be provided at the drive pulley of an underground conveyor and at 300-foot intervals along the belt. A minimum of 2 2A-10BC approved fire extinguishers shall be provided at the tunneling machine.

(9) A pressurized tunnel in which combustible materials are stored or used shall be equipped with a 2-inch minimum diameter water line with an outlet that is connected to a 1 1/2-inch nominal diameter fire hose which is capable of reaching the combustible materials.

The water supply shall be of sufficient volume and pressure to efficiently operate the type of nozzle used on the fire hose for a minimum of 1 minute. Fire extinguishers may be substituted for the water and fire hose if they meet the requirements for the water service.

(10) ALL OF THE FOLLOWING ARE ADDITIONAL REQUIREMENTS FOR GASSY OPERATIONS:

(A) ONLY ACCEPTABLE EQUIPMENT, MAINTAINED IN SUITABLE CONDITION, SHALL BE USED IN GASSY OPERATIONS.

(B) MOBILE DIESEL-POWERED EQUIPMENT USED IN GASSY OPERATIONS SHALL BE EITHER APPROVED AS PRESCRIBED IN THE REQUIREMENTS OF THE CODE OF FEDERAL REGULATIONS, TITLE 30, MINERAL RESOURCES, REVISED JULY 1, 2000, PART 36, OR SHALL BE DEMONSTRATED BY THE EMPLOYER TO BE FULLY EQUIVALENT TO THE MINE SAFETY AND HEALTH ADMINISTRATION APPROVED EQUIPMENT AND SHALL BE OPERATED IN ACCORDANCE WITH THAT PART. THE CODE OF FEDERAL REGULATIONS, TITLE 30, MINERAL RESOURCES, REVISED JULY 1, 2000: PARTS 1-199, ARE ADOPTED BY REFERENCE IN THIS RULE. THE PROVISIONS MAY BE PURCHASED AS INDICATED IN R 408.41463(7).

(C) EACH ENTRANCE TO A GASSY OPERATION SHALL BE PROMINENTLY POSTED WITH SIGNS NOTIFYING ALL ENTRANTS OF THE GASSY CLASSIFICATION.

(11) ~~(10)~~ A minimum of 1 approved 2A-10BC fire extinguisher shall be provided for each electrical, diesel, or hydraulic powered machine used in a tunnel or shaft.

(12) ~~(11)~~ A noncombustible barrier shall be installed below welding or burning operations.

(13) ~~(12)~~ In an underground operation, local gas checks shall be made before and during a welding or cutting operation and during a drilling operation that would penetrate the tunnel.

(14) ~~(13)~~ If more than .25% of methane by volume or 5% of the LEL, lower explosive limit, of a flammable gas or petroleum vapor is detected, THEN the welding, cutting, heating, or drilling operation shall cease until the hazard has been eliminated.

(15) ~~(14)~~ A fire watch shall be maintained around welding and cutting operations until all possibility of fire is eliminated. The fire watch shall be provided with a minimum of 1 approved 2A-10BC fire extinguisher.

(16) ~~(15)~~ Flammable materials or supplies, other than those used during 1 shift, shall not be stored within ~~20~~ 100 feet (30.48 METERS) of any tunnel or shaft opening. IF THIS IS NOT FEASIBLE BECAUSE OF SPACE LIMITATIONS ON THE JOBSITE, THEN SUCH MATERIALS MAY BE LOCATED WITHIN THE 100 FOOT LIMIT, IF BOTH OF THE FOLLOWING PROVISIONS ARE COMPLIED WITH:

(A) THE MATERIALS ARE LOCATED AS FAR AS PRACTICABLE FROM THE OPENING.

(B) A FIRE RESISTANT BARRIER OF NOT LESS THAN A 1-HOUR RATING IS PLACED BETWEEN THE STORED MATERIAL AND THE OPENING OR ADDITIONAL PRECAUTIONS ARE TAKEN THAT WILL PROTECT THE MATERIALS FROM IGNITION SOURCES.

(17) ~~(16)~~ A head frame shall be constructed of steel or other fire resistant material. A hoist house and other temporary surface building or structures within 100 feet of the shaft,



caisson, or tunnel opening shall be built of fire-resistant materials THAT HAVE A FIRE RESISTANCE RATING OF NOT LESS THAN 1 HOUR.

## **TUNNELS AND SHAFTS**

### **R 408.41471 Ground support; inspections; repairs.**

Rule 1471. (1) A qualified employee shall inspect the roof, face, and walls of portals, work areas, and haulage ways, or travelways at the start of each shift and frequently thereafter as needed. ~~Where~~ IF loose soil or rock or fractured material is encountered, THEN it shall be scaled or protected and supported. THE EMPLOYEE CONDUCTING THE INSPECTIONS SHALL BE PROTECTED FROM LOOSE GROUND BY LOCATION, GROUND SUPPORT, OR EQUIVALENT MEANS. SUITABLE PROTECTION SHALL BE PROVIDED FOR EMPLOYEES EXPOSED TO THE HAZARD OF LOOSE GROUND WHILE INSTALLING GROUND SUPPORT SYSTEMS. SUPPORT SETS SHALL BE INSTALLED SO THAT THE BOTTOMS HAVE SUFFICIENT ANCHORAGE TO PREVENT GROUND PRESSURES FROM DISLODGING THE SUPPORT BASE OF THE SETS. LATERAL BRACING (COLLAR BRACING, TIE RODS, OR SPREADERS) SHALL BE PROVIDED BETWEEN IMMEDIATELY ADJACENT SETS TO ENSURE ADDED STABILITY. DAMAGED OR DISLODGED GROUND SUPPORTS THAT CREATE A HAZARDOUS CONDITION SHALL BE PROMPTLY REPAIRED OR REPLACED. WHEN REPLACING SUPPORTS, THE NEW SUPPORTS SHALL BE INSTALLED BEFORE THE DAMAGED SUPPORTS ARE REMOVED. A SHIELD OR OTHER TYPE OF SUPPORT SHALL BE USED TO MAINTAIN A SAFE TRAVEL WAY FOR EMPLOYEES WORKING IN DEAD-END AREAS AHEAD OF ANY SUPPORT REPLACEMENT OPERATION.

(2) A scaling bar shall be in good condition. A blunted or severely worn bar shall not be used.

(3) A torque meter and a torque wrench shall be available where rock bolts are used for ground support. Frequent tests shall be made to determine if the bolts are tight. The test frequency shall be determined by rock conditions and distance from vibration sources.

(4) A damaged or dislodged tunnel support shall be repaired or replaced when structural integrity is impaired. A new support shall be installed ~~whenever~~ IF possible before removing damaged supports.

(5) Tunnel supports shall be designed and installed to prevent pressure from pushing them inward into the excavation.

(6) Roof supports shall be used where ground conditions are such that there could be a ground failure ahead of tunnel sets.

(7) A tunnel that is to be occupied by employees shall be provided with a steel casing, concrete pipe, timber, or other material of required strength to support the surrounding earth.

(8) If an employee is required to enter a tunnel less than 3 feet in diameter, THEN a lifeline for instant rescue shall be securely fastened to his OR HER ankles. Another employee shall be stationed at the tunnel entrance to operate the lifeline. In addition, ventilation shall be provided with an air line.

**R 408.41472 Shafts; supports; inspections; lifelines.**

Rule 1472. (1) A shaft that an employee is required to enter shall be provided with steel casing, concrete pipe, timber, or other material that is strong enough to support the surrounding earth.

(2) For rescue operations, a lifeline shall be securely fastened to a safety harness on each employee who enters a shaft that is less than 4 feet in diameter. The lifeline and safety harness shall be provided as prescribed in R 408.44501 ET SEQ., CONSTRUCTION SAFETY STANDARD Part 45 'Fall Protection.' ~~being R 408.44501 et seq. of the Michigan Administrative Code.~~

(3) A shaft that is more than 5 feet in depth shall be braced to support the surrounding earth. The bracing shall be provided the full depth of the shaft, or, if rock is encountered, to not less than 5 feet into solid rock, and shall extend not less than 1 foot above the ground level.

(4) After a blasting operation, the bracing shall be inspected. If the bracing is found to be unsafe, THEN corrections shall be made before the shift operations are continued.

(5) A shaft or caisson shall be protected with a guardrail system as prescribed in R 408.44501 ET SEQ., construction safety standard Part 45 'Fall Protection,' or barricaded as prescribed in R 408.42201 ET SEQ., CONSTRUCTION SAFETY STANDARD Part 22 'Signals, Signs, Tags, and Barricades.' ~~being R 408.44501 et seq. and R 408.42201 et seq., respectively, of the Michigan Administrative Code.~~ A gate opening into the shaft shall be provided and shall be closed at all times, except when necessary to enter or leave the shaft or caisson.

**R 408.41474 Blasting.**

Rule 1474. (1) All blasting and explosives handling shall be conducted AS PRESCRIBED in ~~compliance with the~~ R 408.42701 ET SEQ., construction safety ~~standards~~ ~~commission~~ standard Part 27 'Blasting and Use of Explosives.' ~~being R 408.42701 of the Michigan Administrative Code.~~

(2) AN EMPLOYER SHALL NOT ALLOW an employee ~~shall not be allowed~~ to enter a shaft or a tunnel heading after blasting until air quality meets minimum requirements.

(3) BLASTING WIRE SHALL BE KEPT CLEAR OF ELECTRICAL LINES, PIPES, RAILS, AND OTHER CONDUCTIVE MATERIAL, EXCLUDING EARTH, TO PREVENT EXPLOSIVES INITIATION OR EMPLOYEE EXPOSURE TO ELECTRIC CURRENT.

(4) AFTER BLASTING OPERATIONS IN SHAFTS, A COMPETENT PERSON SHALL DETERMINE IF THE WALLS, LADDERS, TIMBERS, BLOCKING, OR WEDGES HAVE LOOSENEED. IF SO, NECESSARY REPAIRS SHALL BE MADE BEFORE EMPLOYEES OTHER THAN THOSE ASSIGNED TO MAKE THE REPAIRS ARE ALLOWED IN OR BELOW THE AFFECTED AREAS.

**R 408.41475 Haulage; inspection; braking; riding.**

Rule 1475. (1) Haulage equipment that is to be used during a shift shall be inspected by a qualified employee before the start of the shift. Known defects that affect the safety of employees shall be corrected before the equipment is used.

(2) The roadbed, rails, joints, switches, frogs, and other elements of the track of a haulage road shall be constructed, installed, and maintained in a manner that is consistent with the speed and type of the haulage operations to be conducted.

(3) A track switch shall be provided with a locking or spring-loaded thrown bridle bar and guardrail. The switch throw, where possible, shall be placed on the clearance side, and the switch throw shall operate parallel to the haulage road.

(4) A powered locomotive or other mobile equipment shall be provided with suitable brakes, an audible warning device for use by the operator as needed, and lights at both ends.

(5) Powered mobile haulage equipment that is subject to falling materials shall be equipped with a cab, canopy, or other protective device that is capable of protecting the operator from shifting or falling materials. FOR CABS WHERE GLAZING IS USED, THE GLASS SHALL BE SAFETY GLASS, OR ITS EQUIVALENT, AND SHALL BE MAINTAINED AND CLEANED SO THAT VISION IS NOT OBSTRUCTED.

(6) Powered mobile equipment shall not be left unattended unless the power is off, all operating controls are in the neutral position, and the brakes are set or other equivalent precautions are taken to prevent rolling. The operating controls shall be designed to automatically return to a neutral position or SHALL be equipped with a deadman control.

(7) A trolley wire shall be protected from contact by WITH employees. Energized rails shall not be used, except when used as a ground return for a trolley wire. IF RAILS SERVE AS A RETURN FOR A TROLLEY CIRCUIT, THEN BOTH RAILS SHALL BE BONDED AT EVERY JOINT AND CROSS BONDED EVERY 200 FEET (60.96 METERS).

(8) Backstops or automatic braking shall be installed on an inclined conveyor to prevent the conveyor from running out of control and creating a hazard for the employee.

(9) An employee shall not ride on any of the following unless specifically designed or adapted for transporting employees:

(a) A power-driven chain, belt, or bucket conveyor. (b) A dipper. (c) A shovel bucket. (d) Forks. (e) A clamshell. (f) The bed of a dump truck.

(g) Haulage equipment. AN EMPLOYEE SHALL NOT RIDE HAULAGE EQUIPMENT UNLESS IT IS EQUIPPED WITH SEATING FOR EACH PASSENGER AND PROTECTS PASSENGERS FROM BEING STRUCK, CRUSHED, OR CAUGHT BETWEEN OTHER EQUIPMENT OR SURFACES.

(10) AN EMPLOYER SHALL NOT USE AN ENDLESS BELT-TYPE MAN LIFT IN UNDERGROUND CONSTRUCTION.

~~(10)~~ (11) Cars that are dumped by hand shall be provided with tie-down chains or dumper blocks to prevent the cars from overturning.

~~(11)~~ (12) A rocker bottom or bottom-dump car shall be equipped with positive-locking devices.

~~(12)~~ (13) Equipment that is to be hauled shall be loaded or protected so as to prevent sliding or spillage.

~~(13)~~ (14) Parked rail haulage equipment shall be chocked or chained if subject to accidental movement.

~~(14)~~ (15) Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel or overturning at dumping locations and, where necessary, at track dead ends.

~~(15)~~ (16) Supplies, materials, and tools, other than small hand tools shall not be transported with employees in the same car and shall not be transported on top of a locomotive.

~~(16)~~ (17) A refuge station shall be provided not more than every 300 feet where a clearance of 2 feet from moving equipment cannot be provided for employees unless the employees are prohibited from walking the haulage route during movement of a haulage train along the route.

~~(17)~~ (18) A train that is used on an incline which would cause the cars to run out of control shall, in addition to couplings, have safety chains, or the equivalent, to connect the cars and the power haulage equipment in a train. THE SAFETY CHAINS OR OTHER CONNECTIONS SHALL BE CAPABLE OF MAINTAINING CONNECTION BETWEEN CARS IN THE EVENT OF EITHER COUPLER DISCONNECT, FAILURE, OR BREAKAGE.

~~(18)~~ (19) When an employee is being transported in a train, the operator shall have clear vision beyond the forward end of the train for safe operation.

~~(19)~~ (20) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work.

~~(20)~~ (21) Employees shall not reach between moving cars during coupling operations.

~~(21)~~ (22) Couplings shall not be aligned, shifted, or cleaned when cars or locomotives are moving.

(23) WHERE SWITCHING FACILITIES ARE AVAILABLE, OCCUPIED PERSONNEL CARS SHALL BE PULLED, NOT PUSHED. IF OCCUPIED PERSONNEL CARS MUST BE PUSHED AND THE VISIBILITY OF THE TRACK IS HAMPERED, THEN A QUALIFIED PERSON SHALL BE STATIONED IN THE LEAD CAR TO GIVE SIGNALS TO THE LOCOMOTIVE OPERATOR.

**R 408.41476 Stationary hoists generally.**

Rule 1476. (1) ~~Upon installation, and weekly thereafter, each stationary hoist assembly shall be checked to assure that all of the components are operating properly and are in good condition. A trial run of the cage or skip shall be made when it has been out of service for 1 complete shift or longer.~~ TO ENSURE SUITABLE OPERATION AND SAFE CONDITION OF ALL FUNCTIONS AND SAFETY DEVICES, EACH HOIST ASSEMBLY SHALL BE INSPECTED AND LOAD-TESTED TO 100% OF ITS RATED CAPACITY AT THE TIME OF INSTALLATION, AFTER ANY REPAIRS OR ALTERATIONS AFFECTING ITS STRUCTURAL INTEGRITY, AFTER THE OPERATION OF ANY SAFETY DEVICE, AND ANNUALLY WHEN IN USE. THE EMPLOYER SHALL PREPARE A CERTIFICATION RECORD THAT INCLUDES ALL OF THE FOLLOWING INFORMATION:

(A) THE DATE EACH INSPECTION AND LOAD-TEST WAS PERFORMED.

(B) THE SIGNATURE OF THE PERSON WHO PERFORMED THE INSPECTION AND TEST.

(C) A SERIAL NUMBER OR OTHER IDENTIFIER FOR THE HOIST THAT WAS INSPECTED AND TESTED.

THE MOST RECENT CERTIFICATION RECORD SHALL BE MAINTAINED ON FILE UNTIL COMPLETION OF THE PROJECT.

(2) A qualified employee who shall be designated by the employer, shall visually inspect the stationary hoist assembly, anchorages, and hoisting rope at the beginning of each shift.

- (3) All unsafe conditions that are revealed by tests, checks, or inspections shall be corrected before use of the equipment.
- (4) An employee shall not be permitted to ride on a material hoist, unless the hoist is in compliance with the requirements of R 408.41478(1).
- (5) Before maintenance, repairs, or other work is commenced in the shaft that is served by a hoist, the hoist operator shall be informed of the maintenance, repairs, or other work. A notice shall be installed at the top of the shaft and at the operator controls and shall state that work is being done in the shaft.
- (6) Employees who are at the bottom of an excavated shaft shall be protected from the movement of equipment, tools, or materials overhead or the shaft shall be vacated during the operations that may be hazardous to persons below.
- (7) ~~When~~ IF an employee is raised or lowered in a shaft, THEN all other hoisting operations in the shaft shall be stopped until the employee has disembarked at the bottom or top of the shaft.
- (8) When a stationary hoist is being used, the drum-operating lever shall be of a type that returns automatically to the "stop" position when the operator's hand is removed, unless, as a substitute, the throttle that controls the drum speed automatically stops the drum and slows the engine to idling speed when the throttle is released.
- (9) Only wire rope shall be used for hoisting and it shall be properly secured at both the drum and cage or skip ends. When the hoist is in use, not less than 2 full turns shall remain on the conventional drum hoist to protect the end that fastens at the drum from an overload.
- (10) Wire rope shall not be used when any of the following conditions exist:
  - (a) Six randomly distributed broken wires in 1 rope lay, 3 broken wires in 1 strand in 1 lay, or 1 valley break. A valley break is a wire break that occurs between 2 adjacent strands.
  - (b) Abrasion, scrubbing, flattening, peening, or any severe change that causes the loss of more than 1/3 of the original diameter of the outside wires in any given area.
  - (c) Evidence of any heat damage or any damage that is caused by contact with electrical wires or marked corrosion of the rope.
  - (d) Reduction from nominal diameter of more than 3/64 of an inch for diameters up to and including 3/4 of an inch, 1/16 of an inch for diameters 7/8 to 1 1/8 inches, and 3/32 of an inch for diameters 1 1/4 to 1 1/2 inches.
- (11) A wire rope that is used for hoisting shall be continuous and shall not have a knot or splice. The hoisting rope shall not be placed around the load.
- (12) The connection between the hoisting rope and the cage or skip shall be of a type to prevent the cage from spinning.
- (13) All hoists shall be equipped with a landing level indicator at the operator's station.
- (14) Limit switches shall be provided to eliminate two blocking.
- (15) A WARNING LIGHT, SUITABLY LOCATED TO WARN EMPLOYEES AT THE SHAFT BOTTOM AND SUBSURFACE SHAFT ENTRANCES, SHALL FLASH IF A LOAD IS ABOVE THE SHAFT BOTTOM OR SUBSURFACE ENTRANCES OR IF THE LOAD IS BEING MOVED IN THE SHAFT. THIS SUBRULE DOES NOT APPLY TO FULLY ENCLOSED HOISTWAYS.
- (16) IF A HOISTWAY IS NOT FULLY ENCLOSED AND EMPLOYEES ARE AT THE SHAFT BOTTOM, THEN CONVEYANCES OR EQUIPMENT SHALL BE STOPPED

NOT LESS THAN 15 FEET ABOVE THE BOTTOM OF THE SHAFT AND HELD THERE UNTIL THE SIGNALPERSON AT THE BOTTOM OF THE SHAFT DIRECTS THE OPERATOR TO CONTINUE LOWERING THE LOAD, EXCEPT THAT THE LOAD MAY BE LOWERED WITHOUT STOPPING IF THE LOAD OR CONVEYANCE IS WITHIN FULL VIEW OF A BOTTOM SIGNALPERSON WHO IS IN CONSTANT VOICE COMMUNICATION WITH THE OPERATOR.

(17) CAGE, SKIPS, AND LOAD CONNECTIONS TO THE HOIST ROPE SHALL BE MADE SO THAT THE FORCE OF THE HOIST PULL, VIBRATION, MISALIGNMENT, RELEASE OF LIFT FORCE, OR IMPACT WILL NOT DISENGAGE THE CONNECTION. MOUSED OR LATCHED OPEN-THROAT HOOKS DO NOT MEET THIS REQUIREMENT.

(18) WHEN USING WIRE ROPE WEDGE SOCKETS, MEANS SHALL BE PROVIDED TO PREVENT WEDGE ESCAPEMENT AND TO ENSURE THAT THE WEDGE IS PROPERLY SEATED.

(19) HOISTS SHALL BE DESIGNED SO THAT THE LOAD HOIST-DRUM IS POWERED IN BOTH DIRECTIONS OF ROTATION AND SO THAT THE BRAKES ARE AUTOMATICALLY APPLIED UPON POWER RELEASE OR FAILURE.

(20) IF A CRANE IS USED FOR BOTH PERSONNEL HOISTING AND MATERIAL HOISTING, THEN THE LOAD AND SPEED RATINGS FOR PERSONNEL AND FOR MATERIALS SHALL BE ASSIGNED TO THE EQUIPMENT.

(21) EMPLOYEES SHALL NOT RIDE ON TOP OF ANY CAGE, SKIP, OR BUCKET, EXCEPT WHEN NECESSARY TO PERFORM INSPECTION OR MAINTENANCE OF THE HOISTING SYSTEM, IN WHICH CASE THEY SHALL BE PROTECTED BY A BODY BELT/HARNESS FALL PREVENTION SYSTEM.

**R 408.41477 Stationary material hoists.**

Rule 1477. (1) A hoist used for raising or lowering materials in a shaft shall have a minimum factor of safety of 5, shall be designed and rated by an engineer competent in ~~this~~ THE field, and shall be constructed in accordance with ~~such~~ THE design. ~~This~~ THE design shall BE CONSTRUCTED SO THAT ~~incorporate provisions so~~ the hoist cannot exceed the maximum rated speed.

(2) The rated capacity of the hoist shall be posted at all working levels.

(3) Each hoist assembly shall be load tested to 200% of its rated capacity upon installation, after any repairs or alterations affecting its structural integrity or operation of safety devices, and every 6 months during use. A written record of each test shall be maintained for the duration of the project and shall be made available for inspection by authorized representatives of the director.

(4) Hoist equipment and the operator shall be protected from inclement weather by a hoist house with a comfortable temperature maintained.

(5) Where glass is used in hoist house windows, the glass shall be ~~of~~ safety glass or ITS equivalent.

(6) Hoist controls shall be ~~located in such an arrangement~~ ARRANGED to make them operable from a single position of the operator.

(7) Controls for powered hoists shall be of the deadman-type with a non-locking switch or control.

- (8) A device to shut off the power shall be installed ahead of the operating control.
- (9) A hoist machine ~~with~~ THAT HAS cast metal parts shall be limited to 2,000 pounds single line pull.
- (10) All hoists shall be equipped with landing level indicators at the operator's station.
- (11) MATERIAL, TOOLS, AND SUPPLIES BEING RAISED OR LOWERED, WHETHER WITHIN A CAGE OR OTHERWISE, SHALL BE SECURED OR STACKED IN A MANNER TO PREVENT THE LOAD FROM SHIFTING, SNAGGING, OR FALLING INTO THE SHAFT.

**R 408.41478 Personnel hoists.**

Rule 1478. (1) A personnel hoist shall be used to raise or lower an employee in a tunnel shaft or caisson. A CRANE MAY BE USED TO RAISE OR LOWER AN EMPLOYEE, IF THE CRANE AND THE WORK PLATFORM ARE AS PRESCRIBED IN R 408.41001 ET SEQ., CONSTRUCTION SAFETY STANDARD PART 10 'LIFTING AND DIGGING EQUIPMENT.' The hoist shall be in compliance with the provisions of ~~Act No. 227 of the Public Acts of 1967, as amended, being S408.801 et seq. of the Michigan Compiled Laws, and 1967 PA 227, MCL 408.801 ET SEQ., BUREAU OF CONSTRUCTION CODES, ELEVATOR SAFETY BOARD, R 408.8511 TO R 408.8524 ARE ADOPTED BY REFERENCE IN THESE RULES. THE PROVISIONS ARE AVAILABLE AT NO COST AS OF THE TIME OF ADOPTION OF THESE RULES FROM THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, BUREAU OF CONSTRUCTION CODES, 2501 WOODLAKE CIRCLE, OKEMOS, MICHIGAN 48909; OR WEBSITE: [WWW.CIS.STATE.MI.US.BCC](http://WWW.CIS.STATE.MI.US.BCC); OR FOR REVIEW AT THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, MIOSHA STANDARDS DIVISION, 7150 HARRIS DRIVE, P.O. BOX 30643, LANSING, MICHIGAN 48909-8143. the rules of the department of consumer and industry services relating to elevators, being R 408.8511 to R 408.8524 of the Michigan Administrative Code.~~ During the excavation of a shaft or caisson, an employee may be raised or lowered on a work platform if the work platform meets the specifications of subrule (2) of this rule.

(2) A work platform that is attached to the load line of a crane which is used to transport, raise, or lower employees shall be in compliance with all of the following provisions:

(a) Be designed by a qualified person. All welding shall be in accordance with applicable American Welding Society standards. AMERICAN WELDING SOCIETY (AWS) STANDARD IHS AWSC 'AWS--STRUCTURAL WELDING CODE,' 2000 EDITION, ~~the requirements of ANSI/AWS D1.1-88, Structural Welding Code,~~ are adopted by reference in these rules and are available at a cost as of the time of adoption of these rules of \$350.00 ~~\$60.00~~ from the GLOBAL ENGINEERING DOCUMENTS, 15 INVERNESS WAY EAST, ENGLEWOOD, COLORADO 80112; WEB-SITE: [WWW.GLOBAL.IHS.COM](http://WWW.GLOBAL.IHS.COM); OR FOR REVIEW AT THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, MIOSHA STANDARDS DIVISION, 7150 HARRIS DRIVE, P.O. BOX 30643, LANSING, MICHIGAN 48909. ~~American National Standards Institute, 11 West 42nd Street, New York, New York 10036, or from the American Welding Society, 2501 N.W. Street, Miami, Florida 33215, or from the Safety Standards Division, Michigan Department of Consumer and Industry Services, P.O. Box 30015, Lansing, Michigan 48909.~~

- (b) Except for the guardrail system, be of welded mild steel construction that has a minimum safety factor of 5 times the maximum intended load.
- (c) Have continuous mild steel guardrails (toprails and midrails) and toeboards as prescribed in R 408.44501 ET SEQ., CONSTRUCTION SAFETY STANDARD Part 45 'Fall Protection.' ~~being R 408.44501 et seq. of the Michigan Administrative Code.~~
- (d) Have wood planking, steel plate, or grating that is bolted or welded to the bottom of the work platform.
- (e) Have a 4-point wire suspension system that utilizes wire which is not less than 1/2 of an inch in diameter. Each leg of the suspension system shall be independent wire rope that has hand-tucked eye splices or swaged fittings on each end. Wire rope clips shall not be used. The independent suspension system shall be attached to the work platform using proper size screw pin shackles.
- (f) Have each leg of the independent 4-point suspension system at a 30-degree angle from the vertical.
- (g) Be connected to the load line by means of a screw pin shackle or a gated hook. Both ends of a minimum 5/8-inch wire rope safety line shall be installed above the headache ball to a screw pin shackle and pass through the eyes of the work platform suspension system to prevent the platform from falling if disengaged from the gated hook. If a screw pin shackle is used in place of a gated hook, THEN the 5/8-inch wire rope safety line is not required.
- (h) Have overhead protection when there is an overhead hazard.
- (i) Have a permanently affixed sign that specifies the maximum number of passengers, the identification number, and the maximum intended load.
- (j) Be easily identifiable by high-visibility color or marking.
- (3) Before a work platform is used on a jobsite, it shall be load-tested to 2 times the maximum intended load.
- (4) The work platform and the test load shall be raised and lowered to the maximum anticipated change of elevation.
- (5) A record of the load test shall be maintained on the jobsite.
- (6) Employees on the work platform shall be provided with, and be required to use, proper safety equipment as PRESCRIBED ~~required by~~ IN R 408.40601 ET SEQ., construction safety standards Part 6 'Personal Protective Equipment.' ~~being R 408.40601 et seq. of the Michigan Administrative Code,~~ and R 408.44501 ET SEQ., CONSTRUCTION SAFETY STANDARD Part 45 'Fall Protection.' ~~being R 408.44501 et seq. of the Michigan Administrative Code.~~ An employee shall wear a safety belt that has a lanyard affixed to the safety belt and to the top rail of the steel guardrail system of the work platform. Standing on the guardrail system is prohibited.
- (7) Free-spooling is prohibited when using a work platform to lower personnel. The maximum rate of travel shall be 100 feet per minute.
- (8) All sides of personnel cages shall be enclosed by 1/2-inch (12.70 mm) wire mesh, which shall not be less than no. 14 gauge or its equivalent, to a height of not less than 6 feet (1.83 m). When the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion. All personnel cages shall be provided with a positive-locking door that ONLY OPENS INWARD. ~~does not open outward.~~



- (9) The rails on 1 side of personnel cages shall be removed and a chain shall be installed in place of the top rail to provide a door opening. The chain shall be securely fastened during all travel and only be opened during access to, or egress from, the work platform.
- (10) Only hand and portable powered tools shall be permitted on the work platform.
- (11) Flammable or combustible liquids or gases shall not be permitted on the work platform if the platform is occupied by an employee or employees.
- (12) Platforms shall not be used during adverse weather conditions that could affect the safety of employees.
- (13) There shall be a communication system, which may be a hand signal, a telephone wire, or a selective frequency radio system, between employees on the work platform and the operator of the crane. The system shall be in compliance with both of the following provisions:
- (a) If hand signals are being employed and employees are being raised, lowered, or positioned and are not in continuous sight of the operator of the crane at all times, THEN the employer shall designate an employee, who shall not be on the work platform, to be the signalperson.
  - (b) The signalperson shall not be assigned any other duties while the work platform is in a suspended position with employees on it and shall remain in a position so that both the work platform and the operator can be seen at all times.
- (14) The crane shall be inspected daily before being used with a work platform. All of the following components shall be inspected:
- (a) The wire rope. (b) The hook. (c) The brakes. (d) The boom.
  - (e) Any other mechanical and rigging equipment that is vital to the safety of the operation.
- (15) Any structural or mechanical defect that could adversely affect the safe operation of the crane shall be corrected before an operation that utilizes a work platform begins.
- (16) Inspections shall be logged and the records maintained on the jobsite.
- (17) The operator of a crane that is used to raise or lower a work platform shall be authorized by the employer and properly qualified to perform the operation.
- (18) A properly qualified crane operator shall not be authorized to raise or lower a platform unless the operator has had not less than 8 hours of experience in the operation of the SPECIFIC crane OR ON A CRANE OF THE SAME TYPE AND DESIGN.
- (19) A crane that is used to raise or lower a work platform shall not be within 25 feet of an overhead energized power line at the closest point of contact.
- (20) When a crane is being used with a work platform, another load shall not be attached to the work platform.
- (21) Only a crane that is equipped with a boom that has a power control lowering system shall be allowed to raise or lower a work platform. The crane boom shall not be live.
- (22) The operator of the crane shall remain at the controls with the engine running when an occupied work platform is in a suspended position.
- (23) The load line of a crane that is used to raise or lower a work platform shall be equipped with a swivel to prevent any rotation of the work platform. The use of nonspin wire rope is prohibited.
- (24) Neither the load nor the boom shall be lowered below the point where less than 4 full wraps of rope remain on their respective drums.

- (25) A crawler crane that is used to raise or lower a work platform shall be set on a firm base and chocked to prevent movement.
- (26) A crane shall not travel in any direction when personnel are on the work platform.
- (27) A crane that is equipped with outriggers shall have the beams fully extended, the jacks lowered, and each float on a firm base when the work platform is in use.

**R 408.41479 Flooding; safety screens; runways.**

Rule 1479. If there is a danger of rapid flooding in a tunnel that has a bore of 16 feet or more in diameter, then both of the following shall be provided:

- (a) A runway from the face to the bulkhead as high in the tunnel as practicable to maintain not less than a 6-foot vertical clearance from the surface of the runway upward to the surface of the tunnel. The runway shall be constructed of noncombustible material and shall have a standard railing installed securely along the length of the runway as prescribed in R 408.42101 ET SEQ., ~~the construction safety standards commission standards Part 21 'Guarding of Walking and Working Areas,' being R 408.42101 et seq. of the Michigan Administrative Code,~~ and R 408.44501 ET SEQ., CONSTRUCTION SAFETY STANDARD Part 45 'Fall Protection.' ~~being R 408.44501 et seq. of the Michigan Administrative Code.~~ If the runway is ramped under a safety screen, THEN the surface shall be made slip-resistant by cleats or other equivalent means.
- (b) Metal safety screens or other equivalent means installed with the bottom of the screen 4 feet above the surface of the runway. The first screen shall be located not less than 400 feet from the face of the tunnel.

**COFFERDAMS AND CAISSONS**

**R 408.41481 Cofferdams.**

- Rule 1481. (1) A cofferdam shall be designed by an engineer WHO IS competent in the field and shall be constructed and maintained in accordance with the design.
- (2) If overtopping of the cofferdam by high waters is possible, then means shall be provided for controlled flooding of the work area.
  - (3) Warning signals for the evacuation of employees in case of an emergency shall be developed and posted.
  - (4) A cofferdam shall have not less than 2 means of egress. Runways, bridges, or ramps shall be provided with guardrails as PRESCRIBED ~~specified in the R 408.44501 ET SEQ., construction safety standards commission standard Part 45 'Fall Protection.' being R 408.44501 et seq. of the Michigan Administrative Code.~~
  - (5) If cofferdams are located close to navigable shipping channels, then warning devices that are visible to vessels in transit shall be provided.

**R 408.41483 Caissons used under pressure.**

Rule 1483. (1) A caisson used under pressure shall be subjected to a hydrostatic test equal to 200% of the working pressure before being used on a job, at which pressure it shall be tight. The caisson shall be stamped on the outside shell about 12 inches from each flange to show the pressure to which it has been subjected.

(2) ALL CAISSONS THAT HAVE A DIAMETER OR SIDE GREATER THAN 10 FEET SHALL BE PROVIDED WITH A MAN LOCK AND SHAFT FOR THE EXCLUSIVE USE OF EMPLOYEES. IN ADDITION TO THE GAUGE IN THE LOCKS, AN ACCURATE GAUGE SHALL BE MAINTAINED ON THE OUTER AND INNER SIDE OF EACH BULKHEAD. THESE GAUGES SHALL BE ACCESSIBLE AT ALL TIMES AND KEPT IN ACCURATE WORKING ORDER.

(3) IN CAISSON OPERATIONS WHERE EMPLOYEES ARE EXPOSED TO COMPRESSED AIR WORKING ENVIRONMENTS, AS PRESCRIBED IN R 325.62991 ET SEQ., OCCUPATIONAL HEALTH STANDARD PART 665 'UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR' SHALL BE COMPILED WITH.

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NOTICE OF PUBLIC HEARING

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**DEPARTMENT OF AGRICULTURE**

**REGULATION 628, SEED POTATO CERTIFICATION**

**ORR # 2000-089**

(By authority conferred on the director of the department of agriculture by section 2 of 1959 PA 221, MCL 286.72)

A public hearing on proposed amendments to Regulation 628, Seed Potato Certification, will be held on Tuesday, August 21, 2001, beginning at 1:30 pm in the Pridgeon Room, 4<sup>th</sup> Floor, Ottawa Building, 611 W. Ottawa, Lansing, Michigan.

The proposed amendments for seed potato certification include:

Removal of certification criteria for material produced under the old hill selection system;

Clarification of timelines to address bacterial ring rot infections;

Elimination of Rule 4a which provided for special isolation provisions for materials introduced into operations under the old hill selection program;

Development of a new seed potato classification system for materials produced through tissue culture.

Development of field and winter test tolerance for the new classification system noted in 4 above.

The department invites all interested persons to present their views regarding the proposed amendments either orally or in writing. Those wishing to testify in person at the hearing are requested to bring written statements with them. Written comments must be received by the Pesticide and Plant Pest Management Division by 5:00 p.m., Friday, August 24, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Pesticide and Plant Pest Management Division at (517) 373-4087, a week in advance to request mobility, visual, hearing, or other assistance.

The proposed amendments are available on the Internet at <http://www.state.mi.us/orr/rules/depart.htm> under Agriculture (identified as 2000-089-AC) or a copy can be acquired from the Michigan Department of Agriculture, Pesticide and Plant Pest Management Division, PO Box 30017, Lansing, Michigan, 48909, (517) 373-4087, upon request.

Dan Wyant, Director

Dated at Lansing, Michigan  
July 16, 2001

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**PROPOSED ADMINISTRATIVE RULES**

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**DEPARTMENT OF EDUCATION**

**STATE BOARD OF EDUCATION**

**SPECIAL EDUCATION PROGRAMS AND SERVICES**

Filed with the Secretary of State on \_\_\_\_\_

These rules take effect on \_\_\_\_\_

(By authority conferred on the state board of education by sections 1701 and 1703 of 1976 PA 451, MCL 380.1701 and 380.1703)

R 340.1701, R 340.1701a, R 340.1701b, R 340.1702, R 340.1705, R 340.1706, R 340.1707, R 340.1708, R 340.1709, R 340.1710, R 340.1711, R 340.1713, R 340.1714, R 340.1715, R 340.1721, R 340.1721a, R 340.1721b, R 340.1721c, R 340.1721d, R 340.1721e, R 340.1722, R 340.1722a, R 340.1722e, R 340.1723c, R 340.1724, R 340.1724a, R 340.1724d, R 340.1725e, R 340.1732, R 340.1733, R 340.1734, R 340.1745, R 340.1750, R 340.1751, R, R 340.1754, R 340.1755, R 340.1757, R 340.1771, R 340.1772, R 340.1781, R 340.1782, R 340.1783, R 340.1786, R 340.1787, R 340.1788, R 340.1792, R 340.1793, R 340.1795, R 340.1796, R 340.1797, R 340.1798, R 340.1799, R 340.1799a, R 340.1799b, R 340.1799c, R 340.1801, R 340.1802, R 340.1803, R 340.1808, R 340.1811, R 340.1812, R 340.1831, R 340.1832, R 340.1833, R 340.1835, R 340.1836, R 340.1837, R 340.1838, R 340.1839, R 340.1851, R 340.1852, R 340.1853 and R 340.1861 of the Michigan Administrative Code are amended; R 340.1703, R 340.1704, R 340.1722c, R 340.1722d, R 340.1722f, R 340.1723, R 340.1723a, R 340.1723b, R 340.1724b, R 340.1725, R 340.1725a, R 340.1725b, R 340.1725c, R 340.1725d, R 340.1736, R 340.1737, R 340.1738, R 340.1739, R 340.1740, R 340.1741, R 340.1742, R 340.1743, R 340.1744, R 340.1746, R 340.1747, R 340.1748, R 340.1749, R 340.1749a, R 340.1749b, R 340.1749c, R 340.1753, R 340.1756, R 340.1758, R 340.1773, R 340.1784, R 340.1785, R 340.1790, R 340.1791, R 340.1794, R 340.1799d, R 340.1805, R 340.1806, R 340.1809, R 340.1810, R 340.1834, R 340.1862, R 340.1863, R 340.1864, R 340.1865, R 340.1866, R 340.1867, R 340.1868, R 340.1869, R 340.1870, R 340.1871, R 340.1872, and R 340.1873 of the Code are rescinded; and R 340.1700, R 340.1709a, R 340.1716, R 340.1717, R 340.1724c, R 340.1725f, R 340.1775, R 340.1883a, R 340.1793a, R 340.1799e, and R 340.1799f are added to the Code as follows:

**DEPARTMENT OF EDUCATION**

**OFFICE OF SPECIAL EDUCATION AND EARLY INTERVENTION SERVICES**

**PART 1.**  
**GENERAL PROVISIONS**

**R 340.1700 ASSURANCE OF COMPLIANCE.**

RULE 0. ALL PUBLIC AGENCIES IN THE STATE, AS THOSE AGENCIES ARE DEFINED AT 34 C.F.R. §300.22 OF THE REGULATIONS IMPLEMENTING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, AS AMENDED, MUST COMPLY WITH ALL PROVISIONS OF THESE REGULATIONS, BEING R 340.1700 TO R 340.1873, ALL PROVISIONS OF THE STATE'S APPLICATION FOR FEDERAL FUNDS UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 20 U.S.C., CHAPTER 33, §1400 ET SEQ., THE REQUIREMENTS OF PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, AND THE REGULATIONS IMPLEMENTING THE ACT, 34 C.F.R. PART 300.

**R 340.1701 Definitions; A to E D.**

Rule 1. As used in these rules:

- (a) "Adaptive behavior" means ~~an individual's~~ A STUDENT'S ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.
- (b) "Agency" means a public or private entity or organization, including the local educationAL agency, PUBLIC SCHOOL ACADEMY, intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to ~~persons who are disabled~~ STUDENTS WITH DISABILITIES.
- (c) ~~"Ancillary and other related services" means services that are specially designed to meet the unique needs of persons with disabilities to age 25, including all of the following:~~
  - (i) ~~Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.~~
  - (ii) ~~Occupational, physical, recreational, music, art, or other therapy.~~
  - (iii) ~~Counseling services, including rehabilitation counseling, parent counseling and training, school health services, or recreation as defined in the individuals with disabilities education act of 1990, 20 U.S.C. §1400 et seq., and the regulations implementing the act, 34 C.F.R. §300.16 (1992).~~
  - (iv) ~~Mobility and orientation services, and special education services provided by other nonteaching personnel.~~
  - (v) ~~Transportation.~~
  - (vi) ~~School psychological and school social work services.~~
  - (vii) ~~Instruction provided to students with disabilities who are homebound, hospitalized, or placed in juvenile detention facilities.~~
  - (viii) ~~Services to preprimary age children with disabilities, which include, where appropriate, evaluation, therapy, consultation with parents, and training activities.~~
- (d) "Annual goals" means a set of general statements that represents expected achievement over a year's time for ~~persons who are disabled who are enrolled in special education programs and services.~~

~~(e) "Approved program" means a program which is described in the intermediate school district plan and which is being operated in compliance with state and federal rules and regulations governing the provision of special education to eligible persons who are disabled.~~

~~(f) "Change in educational status" means a placement of a person who is disabled in regular education, special education programs and services, or from one type of special education program or service to another or termination of special education programs or services by placement, graduation, or expulsion. Any change in grade levels within an educational program level, such as preprimary, elementary, junior high, or senior high, shall not constitute a change in educational status, but a change from one educational program level to another constitutes a change in educational status.~~

~~(g)~~(C) "Complaint" means a specific written and signed allegation, which THAT includes the facts on which the allegation is based, by an individual or an organization that there is an uncorrected violation of any of the following:

(i) Any current provision of these rules.

(ii) ~~Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws 1976 PA 451, MCL 380.1 ET SEQ., as it pertains to special education programs and services.~~

(iii) ~~The individuals with disabilities education act of 1990 1997, 20 U.S.C., CHAPTER 33, §1400 et seq., and the regulations implementing the act, 34 C.F.R. parts 300 and 301 (1992) (1999).~~

~~(iv) The state board of education's special education plan or a~~An intermediate school district special education plan.

(v) ~~An individualized educational planning committee~~PROGRAM TEAM report, hearing officer decision, or court decision regarding special education programs or services.

(VI) THE STATE APPLICATION FOR FEDERAL FUNDS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

~~(h) "Comprehensive evaluation" means an evaluation that is conducted for the purpose of determining eligibility for special education and related services and for determining the current level of educational performance. The multidisciplinary evaluation team, members of the team, the individualized educational planning committee, or a hearing officer shall determine the comprehensiveness of an evaluation based on individual needs.~~

~~(i) "Consent" means an agreement, in writing, that states all of the following:~~

~~(i) The parent has been fully informed, in his or her native language or through another mode of communication, of all information that is relevant to the activity for which consent is sought.~~

~~(ii) The parent understands and agrees to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom.~~

~~(iii) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.~~

~~(j)~~(D) "Department" means the state department of education.

~~(k)~~(E) "Departmentalize" means a secondary level delivery system in which 2 or more teachers teach groups of special education students WITH DISABILITIES by instructional content areas.



~~(l) "Destruction of records" means either the physical destruction of information or the removal of personal identifiers from information so that the information is not personally identifiable.~~

~~(m) "Education records" means those records which are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include any of the following:~~

~~(i) — Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker of the records and which are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs, on a temporary basis, the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.~~

~~(ii) Records of a law enforcement unit of an educational agency or institution that are in compliance with all of the following conditions:~~

~~(A) The records are maintained apart from the records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution.~~

~~(B) The records are maintained solely for law enforcement purposes.~~

~~(C) The records are not disclosed to individuals other than law enforcement official of the same jurisdiction and education records that are maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.~~

~~(iii) Records which relate to an individual who is employed by an educational agency or institution and which are in compliance with all of the following conditions:~~

~~(A) The records are made and maintained in the normal course of business.~~

~~(B) The records relate exclusively to the individual in that individual's capacity as an employee.~~

~~(C) The records are not available for use for any other purpose. This paragraph does not apply to records relating to an individual who is in attendance at the agency or institution and who is employed as a result of his or her status as a student.~~

~~(iv) Records which relate to an eligible student and which are in compliance with all of the following conditions:~~

~~(A) The records are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity.~~

~~(B) The records are created, maintained, or used only in connection with the provision of treatment to the student.~~

~~(C) The records are not disclosed to anyone other than the individuals who provide the treatment. However, the records may be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the educational agency or institution.~~

~~(v) Records of an educational agency or institution that contain only information that relates to a person after that person was no longer a student at the educational agency or institution. An example would be information that is collected by an educational agency or institution pertaining to the accomplishments of its alumni.~~

**R 340.1701a Definitions; I M to P.**

Rule 1a. As used in these rules:

- (a) ~~"Independent educational evaluation" means an evaluation conducted by a qualified examiner or examiners who are not employed by the public agency responsible for the education of the student. A contracted agent for the purpose of conducting an independent evaluation is not considered an employee of the public agency.~~
- (b) ~~"Individualized educational planning committee" means persons appointed and invited by the superintendent to determine a person's eligibility for special education programs and services and, if eligible, to develop an individualized education program.~~
- (c) ~~"Individualized education program" means a program developed by an individualized educational planning committee which shall be reviewed annually. The components of the program are identified in R 340.1721e(3).~~
- (d) ~~"Instructional services" means services provided by teaching personnel which are specially designed to meet the unique needs of a handicapped person up to age 25. These may be provided by any of the following:~~
  - (i) ~~A preprimary teacher pursuant to R 340.1755.~~
  - (ii) ~~A teacher consultant pursuant to R 340.1749.~~
  - (iii) ~~A teacher of the speech and language impaired pursuant to R 340.1745.~~
  - (iv) ~~A teacher providing instruction to handicapped students who are homebound or hospitalized pursuant to R 340.1746.~~
  - (v) ~~A teacher providing instruction to students who are placed in juvenile detention facilities pursuant to R 340.1757.~~
- (e)(A) ~~"Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating A students suspected of being handicapped or handicapped persons being reevaluated pursuant to R 340.1722d HAVING A DISABILITY. The team shall include at least 1 special education-approved teacher or other specialist with WHO HAS knowledge in the area of the suspected disability.~~
- (f) ~~"Native language," when referring to a person of limited English speaking ability, means the language or mode of communication normally used by that person.~~
- (g)(B) ~~"Normal course of study" means a regular GENERAL education curriculum leading to a high school diploma, or a special education curriculum approved in the intermediate plan leading to a high school diploma. A special education curriculum shall include physical education, personal adjustment, and prevocational and vocational education.~~
- (h) ~~"Occupational therapy" means therapy provided by a therapist who has been registered by the American occupational therapy association or an occupational therapy assistant who has been certified by the American occupational therapy association and who provides therapy under the supervision of a registered occupational therapist.~~
- (i) ~~"Parent" means the mother, father, or legally designated guardian of the handicapped person. "Parent" also means the affected handicapped person when the person reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.~~
- (j)(C) ~~"Parent advisory committee" means a committee of parents of handicapped persons STUDENTS WITH DISABILITIES of a particular intermediate school district appointed by the board of that district pursuant to R 340.1838.~~

~~(k) "Personal adjustment education" means instruction designed to assist the handicapped person to develop personal and social skills needed for adult independent living, including all of the following:~~

- ~~(i) — Activities of daily living.~~
- ~~(ii) Homemaking.~~
- ~~(iii) Mobility.~~
- ~~(iv) Personal health and appearance.~~
- ~~(v) — Recreation.~~
- ~~(vi) Use of prosthetic devices and sensory aids.~~

~~(l) "Personally identifiable" means that information which includes any of the following data:~~

- ~~(i) The legal name of the person, the person's parent, or other family member.~~
- ~~(ii) The address of the person.~~
- ~~(iii) A personal identifier, such as the person's social security number or student number.~~
- ~~(iv) A list of personal characteristics or other information which makes it possible to identify the person with reasonable certainty.~~

~~(m) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan pursuant to Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.~~

~~(n) "Physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, and skills in aquatics, dance, and individual and group games and sports, both intramural and lifetime. The term includes all of the following:~~

- ~~(i) — Special physical education.~~
- ~~(ii) Adaptive physical education.~~
- ~~(iii) Movement education.~~
- ~~(iv) Motor development.~~

~~(o) "Prevocational education" means instruction needed as a prerequisite to vocational education, such as any of the following:~~

- ~~(i) Reading.~~
- ~~(ii) Writing.~~
- ~~(iii) Mathematics.~~
- ~~(iv) Knowledge of commonly used tools, utensils, and processes.~~
- ~~(v) — Familiarity with the broad range of occupations for which special skills are required.~~
- ~~(vi) Common employment procedures and requirements.~~
- ~~(vii) Knowledge of the nature and extent of vocational limitations caused by a handicap.~~

~~(p) "Psychologist" means an approved Michigan A school psychologist or a Michigan fully licensed psychologist.~~

~~(q) "Public expense" means that the public agency either pays for the full cost of the evaluation, program, or services, including transportation and room or board, or else insures that such is provided at no cost to the parent.~~

## **R 340.1701b Definitions; R S to Y.**

Rule 1b. As used in these rules:

~~(a) "Regular education" means education other than special education programs and services.~~

~~(b) "School social worker" means a social worker approved by the department pursuant to R 340.1012.~~

~~(c)(A) "Services" means instructional services PROVIDED BY A SPECIAL EDUCATION TEACHER or ancillary and other related services as defined in these rules. SERVICES DO NOT INCLUDE GRADING, GIVING CREDIT FOR, OR TEACHING A SUBJECT, CLASS, OR COURSE.~~

~~(d) "Short term instructional objectives" means objectives written in measurable terms which relate to the annual goals and which represent expected achievement over several weeks or months, but not more than 1 year.~~

~~(e)(B) "Special education" INCLUDES means specially designed instruction, at no cost to the parents, to meet the unique educational needs of the special education student and to develop the maximum potential of the special education student. All of the following are included in the definition of special education:~~

~~(i) — Classroom instruction.~~

~~(ii) Instruction in physical education.~~

~~(iii) Instructional services defined in R 340.1701a(d).~~

~~(iv) Ancillary and other related services, where specially designed instruction is provided and as identified in R 340.1701(c)(ii), (iii), (IV), (v), (vi), and (vii), AND (VIII).~~

~~(f) "Special education advisory committee" means a committee appointed by the state board of education to advise the state board of education on matters related to the delivery of special education programs and services.~~

~~(g) "Special education classroom" means a classroom that is under the direction of an approved special education teacher and in which a person receives specially designed instruction. (h) "Specialized transportation" means transportation provided in an approved school vehicle in a regular seat, wheelchair, or an approved baby seat. This specifically excludes students who need ambulance service, a medical attendant, or other care outside the responsibility of the schools.~~

~~(I) "Superintendent" means the chief executive officer of the public agency or his or her designee.~~

~~(j) "Transition services" means a coordinated set of activities for a student which is designed within an outcome-oriented process and which promotes movement from school to post-school activities, including postsecondary education; vocational training; integrated employment, including supported employment; continuing and adult education; adult services; independent living; or community participation. The coordinated set of activities shall be based on the~~

~~individual student's needs, shall take into account the student's preferences and interests, and shall include needed activities in all of the following areas:~~

~~(i) — Instruction.~~

~~(ii) Community experiences.~~

~~(iii) Development of employment and other post-school adult living objectives.~~

~~(iv) If appropriate, acquisition of daily living skills and functional vocational evaluation.~~

~~(k) "Vocational education" means vocational education as defined in section 7 of Act No. 451 of the Public Acts of 1976, as amended, being §380.7 of the Michigan Compiled Laws.~~

~~(l) — "Vocational evaluation" means an evaluation conducted before vocational education, which shall include, at a minimum, an assessment of the student's personal adjustment skills, aptitudes, interests, and achievements and special information regarding the student's disabling condition.~~

~~(m) "Work activity center" means a program designed exclusively to provide therapeutic activities for persons who are disabled whose disabilities are so severe that their productive capacity is inconsequential. A work activity center may be operated in conjunction with a sheltered workshop licensed under the fair labor standards act of 1938, as amended, 29 U.S.C. §201 et seq.~~

~~(n)(C) "Youth placed in a juvenile detention facility" means an individual A STUDENT who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.~~

**R 340.1702 "Handicapped person STUDENT WITH A DISABILITY" defined.**

Rule 2. "Handicapped person STUDENT WITH A DISABILITY" means a person who is under 26 years of age and who is determined by an individualized educational planning committee PROGRAM TEAM or a hearing officer to HAVE 1 OR MORE OF THE IMPAIRMENTS DEFINED IN PART 1 OF THESE RULES that necessitates special education or ancillary and other related services, or both. ~~Determination of an impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~ THE STUDENT SHALL NOT BE MORE THAN 25 YEARS OF AGE AS OF SEPTEMBER 1 OF THE SCHOOL YEAR OF ENROLLMENT, SHALL NOT HAVE COMPLETED A NORMAL COURSE OF STUDY AND SHALL NOT HAVE GRADUATED FROM HIGH SCHOOL. A STUDENT REACHING THE AGE OF 26 YEARS AFTER SEPTEMBER 1 IS ENTITLED TO CONTINUE IN A SPECIAL EDUCATION PROGRAM OR SERVICE UNTIL THE END OF THAT SCHOOL YEAR.

**R 340.1703 Determination of severely mentally impaired. RESCIND.**

—Rule 3.(1) The severely mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:

~~(a) — Development at a rate approximately 4 1/2 or more standard deviations below the mean as determined through intellectual assessment.~~

~~(b) Lack of development primarily in the cognitive domain.~~

~~(c) — Impairment of adaptive behavior.~~

~~(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.~~

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

**R 340.1704 Determination of trainable mentally impaired. RESCIND.**

—Rule 4.(1) The trainable mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:

~~(a) — Development at a rate approximately 3 to 4 1/2 standard deviations below the means as determined through intellectual assessment.~~

~~(b) Lack of development primarily in the cognitive domain.~~

~~(c) Impairment of adaptive behavior.~~

~~(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.~~

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

**R 340.1705 ~~Determination of educable mentally impaired~~ COGNITIVE IMPAIRMENT DEFINED; DETERMINATION.**

Rule 5. (1) ~~The educable mentally impaired~~ COGNITIVE IMPAIRMENT shall be determined through the manifestation of all of the following behavioral characteristics:

(a) Development at a rate AT OR BELOW approximately 2 ~~to~~ 3 standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement ~~shall~~ WILL not apply if the ~~child~~ STUDENT is not OF AN age or grade OR MENTAL AGE appropriate for formal or standardized ~~testing~~ ACHIEVEMENT TESTS.

(c) Lack of development primarily in the cognitive domain.

(d) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist.

~~(3) A determination of impairment shall not be based solely on behaviors that relate to environmental, cultural, or economic differences.~~

**R 340.1706 ~~Determination of emotionally impaired~~ EMOTIONAL IMPAIRMENT DEFINED; DETERMINATION.**

Rule 6. (1) ~~The emotionally impaired~~ EMOTIONAL IMPAIRMENT shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the ~~person's~~ STUDENT'S education to the extent that the ~~person~~ STUDENT cannot profit from ~~regular~~ learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

(a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

(b) Inappropriate types of behavior or feelings under normal circumstances.

(c) General pervasive mood of unhappiness or depression.

(d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) ~~The term "emotionally impaired"~~ "STUDENTS WITH EMOTIONAL IMPAIRMENT" also includes ~~persons~~ STUDENTS who, in addition to the ~~above~~ characteristics SPECIFIED IN SUBRULE (1) OF THIS RULE, exhibit maladaptive behaviors related to schizophrenia or similar disorders. ~~The term "emotionally impaired" does not include persons who are socially maladjusted, unless it is determined that such persons are emotionally impaired.~~

(3) ~~The emotionally impaired~~ "STUDENTS WITH EMOTIONAL IMPAIRMENT" shall DOES not include ~~persons~~ STUDENTS whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) WHEN EVALUATING A STUDENT SUSPECTED OF HAVING AN EMOTIONAL IMPAIRMENT, THE MULTIDISCIPLINARY EVALUATION TEAM REPORT SHALL INCLUDE DOCUMENTATION OF ALL OF THE FOLLOWING:

(A) THE STUDENT'S PERFORMANCE IN THE EDUCATIONAL SETTING AND IN OTHER SETTINGS, SUCH AS ADAPTIVE BEHAVIOR WITHIN THE BROADER COMMUNITY.

(B) THE SYSTEMATIC OBSERVATION OF THE BEHAVIORS OF PRIMARY CONCERN WHICH INTERFERE WITH EDUCATIONAL AND SOCIAL NEEDS.

(C) THE INTERVENTION STRATEGIES USED TO IMPROVE THE BEHAVIORS, AND THE LENGTH OF TIME THE STRATEGIES WERE UTILIZED.

(D) RELEVANT MEDICAL INFORMATION, IF ANY.

~~(4)(5)~~ A determination of impairment shall be based on data provided by a multidisciplinary EVALUATION team, which shall include a comprehensive evaluation by both of the following:

(a) A psychologist or psychiatrist.

(b) A school social worker.

~~(5) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

### **R 340.1707 ~~Determination of hearing impaired~~ HEARING IMPAIRMENT DEFINED; DETERMINATION.**

Rule 7. (1) The term "~~hearing impaired~~ IMPAIRMENT" is a generic term which includes both STUDENTS WHO ARE deaf ~~persons~~ and those who are hard of hearing and ~~which~~ refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance ~~in a regular classroom setting~~. The term "deaf" refers to those ~~hearing impaired~~ students WITH HEARING IMPAIRMENT ~~whose~~ WHERE THE hearing loss is so severe that the auditory channel is not the primary means of developing speech and language skills. The term "hard of hearing" refers to ~~those hearing impaired~~ students WITH HEARING IMPAIRMENT ~~with~~ WHO HAVE permanent or fluctuating hearing loss which is less severe than the hearing loss of ~~deaf persons~~ STUDENTS WHO ARE DEAF and which generally permits the use of the auditory channel as the primary means of developing speech and language skills.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an audiologist and an otolaryngologist or otologist.

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences~~

### **R 340.1708 ~~Determination of visually impaired~~ VISUAL IMPAIRMENT DEFINED; DETERMINATION.**

Rule 8. (1) ~~The visually impaired~~ VISUAL IMPAIRMENT shall be determined through the manifestation of both of the following:

- (a) A visual impairment which interferes with development or which adversely affects educational performance.
- (b) One or more of the following:
  - (i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.
  - (ii) A peripheral field of vision restricted to not more than 20 degrees.
  - (iii) A diagnosed progressively deteriorating eye condition.
- (2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include an ophthalmologist or optometrist.
- ~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~
- (3) IF A STUDENT IS TOO YOUNG TO BE TESTED ACCURATELY FOR ACUITY, THEN FUNCTIONAL VISUAL ASSESSMENTS CONDUCTED BY A TEACHER CERTIFIED IN VISUAL IMPAIRMENT MAY BE USED IN ADDITION TO THE MEDICAL EVALUATION FOR DETERMINATION OF IMPAIRMENT.
- (4) FOR STUDENTS WITH VISUAL IMPAIRMENT WHO HAVE A VISUAL ACUITY OF 20/200 OR LESS AFTER ROUTINE REFRACTIVE CORRECTION, OR WHO HAVE A PERIPHERAL FIELD OF VISION RESTRICTED TO NOT MORE THAN 20 DEGREES, AN EVALUATION BY AN ORIENTATION AND MOBILITY SPECIALIST SHALL BE CONDUCTED. THE ORIENTATION AND MOBILITY SPECIALIST SHALL ALSO INCLUDE IN THE REPORT A SET OF RECOMMENDED PROCEDURES TO BE USED BY A MOBILITY SPECIALIST OR A TEACHER OF STUDENTS WITH VISUAL IMPAIRMENT IN CONDUCTING ORIENTATION AND MOBILITY TRAINING ACTIVITIES.

**~~R 340.1709 Determination of physically and otherwise health impaired.~~**  
**"PHYSICAL IMPAIRMENT" DEFINED; DETERMINATION.**

Rule 9. (1) ~~The physically and otherwise health impaired shall be determined through the manifestation of a physical or other health impairment which adversely affects educational performance and which may require physical adaptations within the school environment.~~ "PHYSICAL IMPAIRMENT" MEANS SEVERE ORTHOPEDIC IMPAIRMENT THAT ADVERSELY AFFECTS A STUDENT'S EDUCATIONAL PERFORMANCE.

~~(2) Determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include 1 of the following:~~ A DETERMINATION OF DISABILITY SHALL BE BASED UPON A COMPREHENSIVE EVALUATION BY A MULTIDISCIPLINARY EVALUATION TEAM, WHICH SHALL INCLUDE ASSESSMENT DATA FROM 1 OF THE FOLLOWING PERSONS:

- (a) An orthopedic surgeon.
- (b) An internist.
- (c) A neurologist.
- (d) A pediatrician.
- (e) A FAMILY PHYSICIAN OR ANY ~~Any~~ other approved physician as defined in ~~Act No. 368 of the Public Acts of 1978, as amended, being § 1978 PA 368, MCL 333.1101 et seq. of the Michigan Compiled Laws.~~



~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

**R 340.1709A "OTHER HEALTH IMPAIRMENT" DEFINED; DETERMINATION.**

Rule 9A. (1) "OTHER HEALTH IMPAIRMENT" MEANS HAVING LIMITED STRENGTH, VITALITY, OR ALERTNESS, INCLUDING A HEIGHTENED ALERTNESS TO ENVIRONMENTAL STIMULI, WHICH RESULTS IN LIMITED ALERTNESS WITH RESPECT TO THE EDUCATIONAL ENVIRONMENT AND TO WHICH BOTH OF THE FOLLOWING PROVISIONS APPLY:

(a) IS DUE TO CHRONIC OR ACUTE HEALTH PROBLEMS SUCH AS ANY OF THE FOLLOWING:

- (i) ASTHMA.
- (ii) ATTENTION DEFICIT DISORDER.
- (iii) ATTENTION DEFICIT HYPERACTIVITY DISORDER.
- (iv) DIABETES.
- (v) EPILEPSY.
- (vi) A HEART CONDITION.
- (vii) HEMOPHILIA.
- (viii) LEAD POISONING.
- (ix) LEUKEMIA.
- (x) NEPHRITIS.
- (xi) RHEUMATIC FEVER.
- (xii) SICKLE CELL ANEMIA.

(b) THE IMPAIRMENT ADVERSELY AFFECTS A STUDENT'S EDUCATIONAL PERFORMANCE.

(2) A DETERMINATION OF DISABILITY SHALL BE BASED UPON A COMPREHENSIVE EVALUATION BY A MULTIDISCIPLINARY EVALUATION TEAM WHICH SHALL INCLUDE 1 OF THE FOLLOWING PERSONS:

- (A) AN ORTHOPEDIC SURGEON.
- (B) AN INTERNIST.
- (C) A NEUROLOGIST.
- (D) A PEDIATRICIAN.
- (E) A FAMILY PHYSICIAN OR ANY OTHER APPROVED PHYSICIAN AS DEFINED IN 1978 PA 368, MCL.

**R 340.1710 ~~Determination of "speech and language impaired~~ IMPAIRMENT" DEFINED; DETERMINATION.**

Rule 10. (1) A "SPEECH AND LANGUAGE IMPAIRMENT" MEANS A COMMUNICATION DISORDER THAT ADVERSELY AFFECTS EDUCATIONAL PERFORMANCE, SUCH AS A LANGUAGE IMPAIRMENT, ARTICULATION IMPAIRMENT, FLUENCY IMPAIRMENT, OR VOICE IMPAIRMENT.

~~(1) (2) The speech and language impaired~~ A COMMUNICATION DISORDER shall be determined through the manifestation of 1 or more of the following ~~communication~~ SPEECH AND LANGUAGE impairments that adversely affects educational performance:;

(a) A LANGUAGE IMPAIRMENT WHICH INTERFERES WITH THE STUDENT'S ABILITY TO UNDERSTAND AND USE LANGUAGE EFFECTIVELY AND WHICH INCLUDES 1 OR MORE OF THE FOLLOWING AREAS:

(i) PHONOLOGY.

(ii) MORPHOLOGY.

(iii) SYNTAX.

(iv) SEMANTICS.

(v) PRAGMATICS, AS EVIDENCED BY BOTH OF THE FOLLOWING:

(A) A SPONTANEOUS LANGUAGE SAMPLE DEMONSTRATING INADEQUATE LANGUAGE FUNCTIONING.

(B) TEST RESULTS ON NOT LESS THAN 2 STANDARDIZED ASSESSMENT INSTRUMENTS OR 2 SUBTESTS DESIGNED TO DETERMINE LANGUAGE FUNCTIONING WHICH INDICATE INAPPROPRIATE LANGUAGE FUNCTIONING FOR THE STUDENT'S AGE.

~~(a)(b)~~ Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.

~~(b)~~ Voice impairment, including inappropriate pitch, loudness, or voice quality.

(c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.

~~(d) One or more of the following language impairments as evidenced by a spontaneous language sample that demonstrates inadequate language functioning and test results, on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning that indicate inappropriate language functioning for the child's age:~~

~~(i) phonological.~~

~~(ii) morphological.~~

~~(iii) syntactic.~~

~~(iv) semantic.~~

~~(v) pragmatic use of aural/oral language.~~

(d) VOICE IMPAIRMENT, INCLUDING INAPPROPRIATE PITCH, LOUDNESS, OR VOICE QUALITY.

~~(2)(3) Any student who is eligible for special education programs and services and who requires~~ A STUDENT WHO HAS A COMMUNICATION DISORDER, BUT WHOSE PRIMARY DISABILITY IS OTHER THAN speech and language, ~~services shall~~ MAY be eligible for speech and language services pursuant to the provision of UNDER R 340.1745(a).

~~(3)(4)~~ A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary EVALUATION team, which shall include a teacher OF STUDENTS WITH SPEECH AND LANGUAGE IMPAIRMENT OR A SPEECH AND LANGUAGE PATHOLOGIST QUALIFIED UNDER R 340.1792. ~~of the speech and language impaired.~~

~~(4) A determination of impairment shall not be based solely on behaviors that relate to environmental, cultural, or economic differences.~~

**R 340.1711 ~~"Preprimary impaired" defined;~~ "EARLY CHILDHOOD DEVELOPMENTAL DELAY" DEFINED; DETERMINATION.**

Rule 11. (1) ~~"Preprimary impaired"~~ "EARLY CHILDHOOD DEVELOPMENTAL DELAY" means a child through 5 7 years of age whose primary ~~impairment~~ DELAY cannot be differentiated through existing criteria within ~~R 340.1703~~ R 340.1705 to R 340.1710 or R 340.1713 to ~~R 340.1715~~ R 340.1717 and who manifests ~~an impairment~~ A DELAY in 1 or more areas of development equal to or greater than ~~1/2~~ 1/4 of the expected development, ~~for chronological age, as measured by more than 1 developmental scale which cannot be resolved by medical or nutritional intervention~~ IN 2 OR MORE AREAS OF DEVELOPMENT, INCLUDING: COGNITIVE DEVELOPMENT, PHYSICAL DEVELOPMENT, COMMUNICATION DEVELOPMENT, SOCIAL OR EMOTIONAL DEVELOPMENT, OR ADAPTIVE DEVELOPMENT, AS MEASURED BY MORE THAN 1 DEVELOPMENTAL SCALE IN EACH AREA OF DELAY. This definition ~~shall~~ DOES not preclude identification of a child through existing criteria within ~~R 340.1703~~ R 340.1705 to R 340.1710 or R 340.1713 to ~~R 340.1715~~ R 340.1717.

(2) A determination of ~~impairment~~ EARLY CHILDHOOD DEVELOPMENTAL DELAY shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team.

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

**R 340.1713 "Specific learning disability" defined; determination.**

Rule 13. (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, ~~which~~ THAT may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain ~~dysfunction~~ DYSFUNCTION, dyslexia, and developmental aphasia. The term does not include children who have learning problems ~~which~~ THAT are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, of autism, or of environmental, cultural, or economic disadvantage.

(2) The individualized educational ~~planning committee~~ PROGRAM TEAM may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:

- (a) Oral expression.
- (b) Listening comprehension.
- (c) Written expression.
- (d) Basic reading skill.
- (e) Reading comprehension.
- (f) Mathematics calculation.
- (g) Mathematics reasoning.

(3) The individualized educational ~~planning committee~~ PROGRAM TEAM shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:

- (a) A visual, hearing, or motor handicap.
- (b) Mental retardation.
- (c) Emotional disturbance.
- (d) Autism.
- (e) Environmental, cultural, or economic disadvantage.

(4) AT LEAST ONE TEAM MEMBER OTHER THAN THE STUDENT'S REGULAR TEACHER SHALL OBSERVE THE STUDENT'S ACADEMIC PERFORMANCE IN THE REGULAR CLASSROOM SETTING.

(5) IN THE CASE OF A CHILD OF LESS THAN SCHOOL AGE OR OUT OF SCHOOL, A TEAM MEMBER SHALL OBSERVE THE CHILD IN AN ENVIRONMENT APPROPRIATE FOR A CHILD OF THAT AGE.

(6) FOR A STUDENT SUSPECTED OF HAVING A SPECIFIC LEARNING DISABILITY, THE DOCUMENTATION OF THE TEAM'S DETERMINATION OF ELIGIBILITY SHALL INCLUDE THE FOLLOWING:

- (A) WHETHER THE STUDENT HAS A SPECIFIC LEARNING DISABILITY.
- (B) THE BASIS FOR MAKING THE DETERMINATION.
- (C) THE RELEVANT BEHAVIOR NOTED DURING THE OBSERVATION OF THE STUDENT.
- (D) THE RELATIONSHIP OF THAT BEHAVIOR TO THE STUDENT'S ACADEMIC FUNCTIONING.
- (E) THE EDUCATIONALLY RELEVANT MEDICAL FINDINGS, IF ANY.
- (F) WHETHER THERE IS A SEVERE DISCREPANCY BETWEEN ACHIEVEMENT AND ABILITY THAT IS NOT CORRECTABLE WITHOUT SPECIAL EDUCATION AND RELATED SERVICES.
- (G) THE DETERMINATION OF THE TEAM CONCERNING THE EFFECTS OF ENVIRONMENTAL, CULTURAL, OR ECONOMIC DISADVANTAGE.

(7) EACH TEAM MEMBER SHALL CERTIFY IN WRITING WHETHER THE REPORT REFLECTS HIS OR HER CONCLUSION. IF IT DOES NOT REFLECT HIS OR HER CONCLUSION, THE TEAM MEMBER MUST SUBMIT A SEPARATE STATEMENT PRESENTING HIS OR HER CONCLUSIONS.

~~(4)~~(8) A determination of ~~impairment~~ LEARNING DISABILITY shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:

- (a) The student's regular teacher or, if the student does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.
- (b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, ~~a teacher of speech and language impaired~~, or a teacher OF STUDENTS WITH DISABILITIES ~~consultant~~.

**R 340.1714 ~~Determination of severely multiply impaired~~ SEVERE MULTIPLE IMPAIRMENT DEFINED; DETERMINATION.**

Rule 14. (1) Students with severe multiple impairments shall be determined through the manifestation of either of the following:

(a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist and, depending upon the ~~handicaps~~ DISABILITIES in the physical domain, the multidisciplinary evaluation team participants required in R 340.1707, R 340.1708, or R 340.1709, OR R 340.1709A.

~~(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.~~

**R 340.1715 "Autism" defined; determination.**

Rule 15. (1) "Autism" means a lifelong developmental disability ~~which~~ THAT is typically manifested before ~~30 months~~ 3 YEARS of age. ~~"Autism" is characterized by disturbances in the rates and sequences of cognitive, affective, psychomotor, language, and speech development.~~

(2) "AUTISM" IS CHARACTERIZED BY DISTURBANCES IN THE RATES AND SEQUENCES OF COGNITIVE, AFFECTIVE, PSYCHOMOTOR, LANGUAGE, AND SPEECH DEVELOPMENT, AND UNEVEN DEVELOPMENT IN THE COGNITIVE, AFFECTIVE, COMMUNICATION, OR PHYSICAL/MOTOR DOMAINS WITH SOME AREAS BEING HIGHER AND OTHERS BEING LOWER THAN EXPECTED FOR THE GENERAL DEVELOPMENTAL LEVEL.

~~(2)(3)~~ (3) The manifestation of the characteristics specified in subruleS (1) AND (2) of this rule and all of the following characteristics shall determine if a ~~person is autistic~~ STUDENT HAS AUTISM:

(a) Disturbance in the capacity to relate appropriately to people, events, and objects.

- (b) Absence, disorder, or delay of language, speech, or meaningful communication.
- (c) Unusual, or inconsistent response to sensory stimuli in 1 or more of the following:
  - (i) Sight.
  - (ii) Hearing.
  - (iii) Touch.
  - (iv) Pain.
  - (v) Balance.
  - (vi) Smell.
  - (vii) Taste.
  - (viii) The way a ~~child~~ STUDENT holds his or her body.
- (d) Insistence on sameness as shown by stereotyped play patterns, repetitive movements, abnormal preoccupation, or resistance to change.
- ~~(3) To be eligible under this rule, there shall be an absence of the characteristics associated with schizophrenia, such as delusions, hallucinations, loosening of associations, and incoherence.~~
- (4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team. The team shall include, at a minimum, a psychologist or psychiatrist, a teacher of STUDENTS WITH speech and language ~~impaired~~ IMPAIRMENT, and a social worker.
- ~~(5) A determination of impairment shall not be based solely on, behaviors relating to environmental, cultural, or economic differences.~~

**New Rule:**

**R 340.1716. "TRAUMATIC BRAIN INJURY" DEFINED.**

RULE 16. (1) "TRAUMATIC BRAIN INJURY" MEANS AN ACQUIRED INJURY TO THE BRAIN WHICH IS CAUSED BY AN EXTERNAL PHYSICAL FORCE AND WHICH RESULTS IN TOTAL OR PARTIAL FUNCTIONAL DISABILITY OR PSYCHOSOCIAL IMPAIRMENT, OR BOTH, THAT ADVERSELY AFFECTS A STUDENT'S EDUCATIONAL PERFORMANCE. THE TERM APPLIES TO OPEN OR CLOSED HEAD INJURIES RESULTING IN IMPAIRMENTS IN 1 OR MORE OF THE FOLLOWING AREAS,

- (a) COGNITION.
  - (b) LANGUAGE.
  - (c) MEMORY.
  - (d) ATTENTION.
  - (e) REASONING.
  - (f) BEHAVIOR.
  - (g) PHYSICAL FUNCTIONS.
  - (h) INFORMATION PROCESSING.
  - (i) SPEECH.
- (2) THE TERM DOES NOT APPLY TO BRAIN INJURIES THAT ARE CONGENITAL OR DEGENERATIVE OR TO BRAIN INJURIES INDUCED BY BIRTH TRAUMA.
- (3) A DETERMINATION OF DISABILITY SHALL BE BASED UPON A COMPREHENSIVE EVALUATION BY A MULTIDISCIPLINARY EVALUATION TEAM, WHICH SHALL INCLUDE ASSESSMENT FROM A FAMILY PHYSICIAN OR

ANY OTHER APPROVED PHYSICIAN AS DEFINED 1978 PA 368, MCL 333.1101 ET SEQ.

**R 340.1717 "DEAF-BLINDNESS" DEFINED; DETERMINATION.**

RULE 17. (1) "DEAF-BLINDNESS" MEANS CONCOMITANT HEARING AND VISUAL IMPAIRMENTS SO SEVERE THAT BOTH OF THE FOLLOWING PROVISIONS APPLY:

(A) THE AUDITORY CHANNEL IS NOT THE PRIMARY MEANS OF DEVELOPING SPEECH AND LANGUAGE SKILLS.

(B) THE VISUAL CHANNEL IS NOT SUFFICIENT TO GUIDE INDEPENDENT MOBILITY OR ACCESS VISUAL INFORMATION, OR BOTH.

(2) THE COMBINATION OF THESE IMPAIRMENTS REQUIRES SUPPORT SERVICES FOR BOTH SENSORY MODES.

(3) THE IMPAIRMENT MUST ADVERSELY AFFECT THE STUDENT'S EDUCATIONAL PERFORMANCE.

(4) A DETERMINATION OF THE DISABILITY SHALL BE BASED UPON DATA PROVIDED BY A MULTIDISCIPLINARY EVALUATION TEAM WHICH SHALL INCLUDE ASSESSMENT DATA FROM THE FOLLOWING:

(A) AN AUDIOLOGIST AND OTOLARYNGOLOGIST, OR OTOLOGIST.

(B) AN OPHTHALMOLOGIST OR OPTOMETRIST.

(C) AT LEAST 1 OTHER SPECIALIST TRAINED TO EVALUATE THE STUDENT'S CURRENT LEVEL OF MOTOR FUNCTIONING, ABILITY LEVEL, OR PRE-ACADEMIC SKILLS OR ACADEMIC SKILLS, OR ALL OF THESE.

**PART 2.**

**EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT, AND DUE PROCESS PROCEDURES**

**R 340.1721 Parental consent for initial evaluation; contents of notice; refusal to consent or respond.**

Rule 21. (1) Within 10 calendar days of receipt of a referral of a ~~person~~ STUDENT suspected of ~~being handicapped~~ HAVING A DISABILITY, and ~~prior to~~ BEFORE any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall notify the parent ~~pursuant to R 340.1723a and R 340.1723b~~ and shall request written consent to evaluate. This written notice shall contain ~~all of the following:~~

~~(a) The reason or reasons an evaluation is sought and the nature of the evaluation.~~

~~(b) A full explanation of all the procedural safeguards available to the parent under part 2 of these rules.~~

~~(c) A description of the types of special education programs and services currently available within the intermediate school district.~~

~~(d) A list of organizations, including their addresses and telephone numbers, available to help parents of handicapped persons understand the special education process.~~

~~(e) A statement of the parent's right to inspect and review all education records with respect to the identification, evaluation, program, educational placement, and the provision~~

of a free appropriate public education to the suspected handicapped student pursuant to the provisions of R 340.1861 to R 340.1866.

~~(f) — A statement of the parent's right to be accompanied to the individualized educational planning committee meeting by any person or persons the parent desires.~~

~~(g) — A statement of the parent's right to obtain an independent evaluation if he or she disagrees with the evaluation conducted by the public agency.~~

~~(h) — A statement of the opportunity for the parent to provide the multidisciplinary evaluation team with information about the suspected handicapped person and the opportunity to present information at the individualized educational planning committee meeting.~~

~~(2) — If the parent refuses consent to evaluate or does not respond within 7 calendar days, then the public agency has the right to request a hearing in this matter pursuant to R 340.1723a(3).~~

R 340.1721a Evaluation procedure.

**Rule 21a.** (1) Each student suspected of being handicapped HAVING A DISABILITY shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701a(e)(A). ~~Members of the team may include other qualified personnel in areas related to the suspected disability, including, where appropriate, the following: health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor ability.~~ IF AN INITIAL EVALUATION REVIEW IS CONDUCTED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM, THEN THE MULTIDISCIPLINARY EVALUATION TEAM SHALL COMPLETE THE EVALUATION AS DETERMINED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM.

(2) The multidisciplinary EVALUATION team shall DO BOTH OF THE FOLLOWING:

(A) eComplete a diagnostic evaluation. ~~including~~

(B) MAKE a recommendation of eligibility; and shall prepare a written report to be presented to the individualized educational planning committee PROGRAM TEAM by the appointed multidisciplinary EVALUATION team member. The report shall include information needed to determine eligibility and educational data which identifies the person's current A STUDENT'S PRESENT level of educational performance AND EDUCATIONAL NEEDS OF THE CHILD. ~~Information presented to the individualized educational planning~~

~~committee shall be drawn from a variety of sources, including parent input, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and other pertinent information. No single procedure shall be used as the sole criterion for determining an appropriate educational program for a person.~~

~~(3) When evaluating a person suspected of being handicapped, the public agency shall assure that tests and other evaluation materials used by members of the multidisciplinary team comply with all of the following provisions:~~

~~(a) — Are administered by trained personnel in conformance with the instructions provided by their producer.~~

~~(b) — Are validated for the specific purpose for which they are used.~~



- ~~(c) — Are designed to assess specific areas of educational need and not merely to provide a general intelligence quotient.~~
- ~~(d) — Are reflective of the person's aptitude or achievement or whatever other factors the test purports to measure rather than reflecting the person's impaired sensory, manual, or speaking skills, unless this is what the test is intended to measure.~~
- ~~(e) — Are selected and administered so as not to be socially or culturally discriminatory.~~
- ~~(4) — When evaluating a person suspected of having a specific learning disability, at least 1 team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.~~
- ~~(5) — The multidisciplinary evaluation team evaluating a person suspected of having a specific learning disability shall complete a written report which shall include, at a minimum, all of the following:~~
  - ~~(a) — A recommendation of eligibility and the basis for making this recommendation.~~
  - ~~(b) — The relevant behavior noted during the observation of the child and the relationship of that behavior to the child's academic functioning.~~
  - ~~(c) — The educationally relevant medical findings, if any.~~
  - ~~(d) — Whether there is a severe discrepancy between achievement and ability which is not correctable without special education.~~
  - ~~(e) — The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.~~
  - ~~(f) — Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.~~
- ~~(6) — When evaluating a person suspected of being emotionally impaired, the multidisciplinary team report shall include documentation of all of the following:~~
  - ~~(a) — The person's performance in the educational setting and in other settings, such as adaptive behavior within the broader community.~~
  - ~~(b) — The systematic observation of the behaviors of primary concern which interfere with educational and social needs.~~
  - ~~(c) — The intervention strategies used to improve these behaviors, and the length of time these strategies were utilized.~~
  - ~~(d) — Relevant medical information, if any.~~
- ~~(7) — For visually impaired students who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of the visually impaired in conducting orientation and mobility training activities.~~
- ~~(8) The parent or legal guardian shall inform the school district of the student's native language when giving consent to evaluate the student. Tests and other evaluation materials shall be provided and shall be administered in the student's native language, unless it is clearly unnecessary to do so. When evaluation in English is not feasible, the public agency shall do all of the following:~~

- ~~(a) — Give first consideration to evaluative personnel who are competent in English and in the native language and culture of the student.~~
- ~~(b) — When needing an interpreter, contract with a bilingual/bicultural psychologist trainee, an intern currently enrolled in a professional training program, or a person who is competent in English and in the native language and culture of the student.~~
- ~~(c) — Provide interpreters for the deaf where appropriate.~~
- ~~(9) — A vocational evaluation shall be conducted before a handicapped student receives vocational education. — The evaluation shall be conducted by personnel qualified to administer and interpret the particular evaluations used.~~
- ~~(10)(3) Special education personnel who are authorized to conduct evaluations of students suspected of being handicapped HAVING A DISABILITY may provide pre-referral PREREFERRAL consultation INTERVENTIONS to regular GENERAL education personnel in accordance with procedures established by the department.~~

**R 340.1721b Individualized educational planning committee PROGRAM TEAM participants.**

- Rule 21b. (1) The superintendent OR HIS OR HER DESIGNEE shall appoint participants to an individualized educational planning committee PROGRAM TEAM and shall invite the parents to be participants.
- ~~(2) — Participants in an individualized educational planning committee meeting shall, at a minimum, include both of the following:~~
  - ~~(a) — A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.~~
  - ~~(b) — The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least 1 of the participants shall be a regular full-time teacher to whom the child is assigned.~~
- ~~(3) — At the initial individualized educational planning committee meeting and at the 3-year comprehensive evaluation review meeting, a member of the multidisciplinary team is required to be a participant and present the written team report. — At subsequent individualized educational planning committee meetings, members of the team may participate at the request of the parent or public agency. — However, 1 of the meeting participants shall present the disabled person's current level of educational performance.~~
- ~~(4)(2) In addition to the parent, other persons, at the discretion of the parent or public agency, may be invited to attend, including the person who is disabled, if appropriate. Upon request of the parent, a representative of the district of residence shall be invited to attend the individualized educational planning committee PROGRAM TEAM meeting if the district of residence has authorized the operating district to conduct the 3-year comprehensive evaluation review individualized educational planning committee PROGRAM TEAM meetings.~~
- ~~(5) — In each case, the superintendent shall give consideration to the appointment of professional ancillary and other related services personnel.~~
- ~~(6) — If a purpose of the meeting is the consideration of transition services for a student, in addition to the parent, the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services shall be invited to attend. — The~~

~~notice of the meeting shall indicate that a purpose of the meeting is to consider transition services, shall indicate that the student will be invited to attend, and shall identify any other agency that will be invited to send a representative. If the student does not attend, the public~~

~~agency shall take other steps to ensure that the student's preferences and interests are considered. If any other agency that was invited to send a representative to the meeting does not send a representative, the public agency shall take other steps to secure the participation of that agency in the planning of any transition services.~~

**R 340.1721c      ~~Scheduling individualized educational planning committee PROGRAM TEAM meeting; requesting parent participation.~~**

Rule 21c. (1) The district of residence is responsible for conducting the initial individualized educational ~~planning committee~~ PROGRAM TEAM meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized educational ~~planning committee~~ PROGRAM TEAM meeting at a mutually agreed ~~on~~ UPON time and place.

(2) The time from referral or from receipt of parental consent to an initial evaluation to the completion of the individualized educational program or the determination of ineligibility shall not exceed 30 school days. This time line begins upon receipt of the signed parental consent by the public agency requesting it and may be extended if agreed to by the parent and public agency.

~~(3) The parent shall be contacted by professional personnel from the school district to explain the purpose of the meeting and the roles and responsibilities of each participant. If an operating district is convening a 3-year reevaluation individualized educational planning committee meeting, as authorized by the resident district, the parent shall be informed of the parent's right to invite a representative of the resident district to be present at the meeting.~~

~~(4) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents to attend. In this case, the public agency shall have a record of its attempts to arrange a mutually agreed on time and place, including all of the following:~~

~~(a) Detailed records of telephone calls made or attempted and the results of these calls.~~

~~(b) Copies of correspondence sent to the parents and any responses received.~~

~~(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.~~

~~(5) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at the meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.~~

**R 340.1721d      ~~Responsibilities of the individualized educational planning committee PROGRAM TEAM.~~**

Rule 21d. (1) ~~Persons identified as being handicapped shall receive special education programs and services pursuant to the individualized educational planning committee program or pursuant to the final decision on an appeal.~~

~~(2) — The individualized educational planning committee shall do all of the following:~~

~~(a) — Determine the eligibility of persons suspected of being handicapped or review eligibility after the 3-year evaluation. A person is eligible, as a statutory right, for special education programs and services if the person is identified as having 1 or more of the impairments defined in part 1 of these rules, is not more than 25 years of age as of September of the school year of enrollment, has not completed a normal course of study, and has not graduated from high school. A person reaching the age of 26 years after September is entitled to continue in a special education program or service until the end of that school year.~~

~~(b) — Consider the need for a change in the educational status for eligible handicapped persons.~~

~~(c) — Develop, review, or revise each handicapped person's individualized education program annually.~~

~~(3) — The UPON COMPLETING THE INDIVIDUALIZED EDUCATION PROGRAM, THE individualized educational planning committee PROGRAM TEAM shall submit its report THE INDIVIDUALIZED EDUCATION PROGRAM to the superintendent immediately upon completing the individualized educational program. The individualized educational planning committee may, after considering the least restrictive environment, recommend where the program and services may most appropriately be provided and may identify for the superintendent the assignment options that were considered and the reasons why the recommended option was chosen. The report of the committee INDIVIDUALIZED EDUCATION PROGRAM shall not be restricted to the programs and services available. In addition, the individualized education program shall not determine how the programs and services shall be delivered, except where such is an integral part of the placement or service itself.~~

**R 340.1721e Individualized educational planning committee PROGRAM TEAM meeting; determination of eligibility for special education programs and services; individualized education program.**

Rule 21e. (1) The superintendent OR HIS OR HER DESIGNEE shall convene an individualized educational planning committee PROGRAM TEAM meeting.

~~(2) — The participants shall determine if the student is eligible for special education programs or services, or both. Eligibility shall be determined by the committee after receipt and review of the multidisciplinary team report and recommendation, and after consideration of any additional information presented by the participants. If a student is determined to be disabled, the committee shall write an individualized education program or may reconvene for this purpose. In either event, the time line specified in R 340.1721e(2) shall apply.~~

~~(3) — An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the committee, or provided by the parent or person who is disabled, and shall include all of the following information, in writing:~~

~~(a) — A statement of the person's present level of educational performance.~~

~~(b) — A statement of annual goals, including short term instructional objectives.~~

~~(c) — Appropriate objective criteria and evaluation procedures and schedules for determining whether the instructional objectives are being achieved.~~

- ~~(d) — The extent to which the person is able to participate in regular education programs.~~
- ~~(e) — An identification of the least restrictive environment program and related service options which were considered, including the reasons why the options were accepted or rejected in making the decision or decisions required in subdivision (f) of this subrule.~~
- ~~(f) — A statement of the specific special education or ancillary and other related services, or both, to be provided to the person, giving consideration to the accessibility of physical facilities; transportation, including the need, if any, for aids or restraints; and room and board.~~
- ~~(g) — Beginning at age 12, a statement indicating committee consideration of prevocational/vocational education needs.~~
- ~~(h) — Beginning not later than age 16, (or a younger age if determined appropriate, a statement of the needed transition services as defined in R 340.1701b(j) ), including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting. If the individualized educational planning committee determines that services are not needed in 1 or more of the areas specified in ————— R 340.1701b(j), the individualized education program shall include a statement to that effect and the basis upon which the determination was made.;~~
- ~~(i) — The projected dates for initiation of special education programs and services and the anticipated duration of the programs and services.~~

(2) THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL DETERMINE WHETHER THE STUDENT HAS A NEED FOR PLACEMENT WITH A SPECIAL EDUCATION TEACHER WHO IS ENDORSED IN A PARTICULAR DISABILITY CATEGORY.

~~(4)(3)~~ Any participant in the ~~committee's~~ INDIVIDUALIZED EDUCATION PROGRAM TEAM'S deliberations who disagrees, in whole or in part, with the ~~committee's~~ TEAM'S determination may indicate the reasons therefore on the ~~committee's~~ TEAM'S individualized education program report or may submit a written statement to be attached to the report.

(4) THE MICHIGAN SCHOOL FOR THE DEAF SHALL BE CONSIDERED A PART OF THE TOTAL CONTINUUM OF SERVICES FOR STUDENTS WITH HEARING IMPAIRMENT. THE RESIDENT DISTRICT SHALL CONDUCT THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING THAT INITIATES AN ASSIGNMENT INTO THE MICHIGAN SCHOOL FOR THE DEAF. REPRESENTATIVES OF THE INTERMEDIATE SCHOOL DISTRICT OF RESIDENCE AND THE MICHIGAN SCHOOL FOR THE DEAF SHALL BE INVITED TO PARTICIPATE IN THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING. THE STATE BOARD OF EDUCATION SHALL ADOPT PROCEDURES FOR PLACEMENT AT THE MICHIGAN SCHOOL FOR THE DEAF.

(5) THE MICHIGAN SCHOOL FOR THE BLIND SHALL BE CONSIDERED A PART OF THE TOTAL CONTINUUM OF SERVICES FOR STUDENTS WITH VISUAL IMPAIRMENT. THE RESIDENT DISTRICT SHALL CONDUCT THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING THAT INITIATES AN ASSIGNMENT INTO THE MICHIGAN SCHOOL FOR THE BLIND. REPRESENTATIVES OF THE INTERMEDIATE SCHOOL DISTRICT OF RESIDENCE

AND THE MICHIGAN SCHOOL FOR THE BLIND SHALL BE INVITED TO PARTICIPATE IN THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING. THE STATE BOARD OF EDUCATION SHALL ADOPT PROCEDURES FOR PLACEMENT AT THE MICHIGAN SCHOOL FOR THE BLIND.

**R 340.1722 Placement in special education programs and services.**

Rule 22. (1) ~~The individualized educational planning committee determines the educational placement of a student with a disability in programs and services from a continuum of alternative placements, such as instruction in regular classes, special classes or special instruction in regular classes, special classes or special schools, home instruction in hospitals and institutions, resource rooms, or itinerant instruction with regular class placements, including the options which are specified in the provisions of 34 C.F.R. §300.17 (1992), and which are adopted in these rules by reference. Copies of the adopted regulations are available from the United States Office of Special Education Programs, 600 Maryland Avenue, S. W., Room 3618, Washington, D.C. 20202, or from the Michigan Department of Education, Office of Special Education Services, P.O. Box 30008, Lansing, Michigan 48909, at the cost of reproduction.~~

(2) ~~Each public agency shall assure all of the following:~~

(a) ~~That to the maximum extent appropriate, a person who has a disability, including a person who is assigned to a public or private institution or other care facility, is educated with persons who do not have disabilities.~~

(b) ~~That placement of a person who has a disability in special classes, separate schools, or the removal of a person who has a disability from the regular education environment occurs only when the nature or severity of the disability is such that education in a regular class using supplementary aids and services cannot be satisfactorily achieved.~~

(c) ~~That a person whose disability is such that he or she requires special classes or facilities shall be placed in programs or services as close as possible to his or her home.~~

(d) ~~That in selecting the least restrictive environment, consideration shall be given to any potentially harmful effects to the student or the quality of services that the student needs.~~

(3) ~~Each public agency shall assure that each qualified person who has a disability shall be given the opportunity to participate with persons who do not have disabilities in nonacademic and extracurricular activities and services to the maximum extent appropriate to the needs of the individual. Nonacademic and extracurricular activities and services may include, but are not limited to, the following:~~

(a) ~~Meals.~~

(b) ~~Recess periods.~~

(c) ~~Counseling services.~~

(d) ~~Athletics.~~

(e) ~~Transportation.~~

(f) ~~Health services.~~

(g) ~~Recreational activities.~~

(h) ~~Special interest groups or clubs sponsored by the public agency.~~

(i) ~~Referrals to agencies that provide assistance to individuals with disabilities.~~

(j) ~~Referrals to employment agencies.~~

~~(k) — Referrals for employment within the local educational agency.~~

~~(l) — Assistance in making outside employment available.~~

~~(m) — Referrals to other agencies for services based on need.~~

~~(4) — The superintendent OR HIS OR HER DESIGNEE shall appoint a staff person to be responsible for the implementation of the individualized education program including services provided by other agencies. This THE person shall be either the principal of the building where the primary educational program is provided to the person STUDENT who has a disability or other staff person who is generally accessible to the staff and who will be working with the person STUDENT who has a disability.~~

~~(5) — The superintendent of the operating district shall give the parent of a person who has a disability a copy of the individualized education program. Each participant on the individualized educational planning committee and all administrative and professional staff who will be directly involved in implementing the program shall have access to a copy of the individualized education program.~~

**R 340.1722a Implementation of individualized education program.**

~~Rule 22a. (1) An individualized education program shall be in effect at the beginning of each school year for every person who has a disability and who is receiving special education and related services from a public agency. The program shall be in effect before special education and related services are provided to a person who has a disability.~~

~~(2)(1) The superintendent of the district of residence, upon receipt of the individualized educational planning committee's PROGRAM, report, shall, WITHIN 7 CALENDAR DAYS, either appeal UNDER R 340.1724 the eligibility decision or the determination of special education programs and services as specified in the individualized education program, or both, or within 7 calendar days OR provide written notice to the parent AND OTHER PARTIES TO THE INDIVIDUALIZED EDUCATION PROGRAM of the agency's intent to implement special education programs and services. pursuant to the provisions of R 340.1723a and R 340.1723b. This THE notice shall identify where the programs and services are to be provided and when the individualized EDUCATION program shall beginS. The 7 day notice does not abrogate the agency's right to request a due process hearing at any time.~~

~~(3)(2) The parent, upon receipt of notification from the superintendent, shall have the right, AT ANY TIME, to appeal the individualized educational planning committee eligibility decision, the individualized education program, or the placement decision pursuant to UNDER the provisions of R 340.1724. The parent may request a due process hearing, at any time. If the parent does not appeal, THEN the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after~~

~~the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.~~

~~(4)(3) If the person who has A STUDENT WITH a disability is to be provided special education or ancillary and other related services for the first time, THEN the parent shall have HAS 10 calendar days after receipt of the notice from the superintendent to provide~~

the public agency with written consent to provide special education programs and services. If the parent refuses consent or does not respond, then the public agency has the right to request a hearing on this matter pursuant to the provisions of R 340.1723a(3).

**R 340.1722c ~~Post initial individualized educational planning committee meetings; participant responsibilities. RESCIND.~~**

~~—Rule 22c. (1) An individualized education program shall be reviewed at least once every 12 months.~~

~~(2) The resident district superintendent shall convene, or authorize the operating district to convene, an individualized educational planning committee to review a handicapped person's individualized education program. Participants at a meeting for this purpose shall do all of the following:~~

- ~~(a) Review the person's level of educational performance.~~
- ~~(b) Review the appropriateness of the individualized education program content and determine if the annual goals, and the instructional objectives have been met.~~
- ~~(c) Recommend 1 or more of the following:~~
  - ~~(i) Revision of the current individualized education program. Participants shall develop an individualized education program for the handicapped person, the components of which are identified in R 340.1721c(3).~~
  - ~~(ii) Continuation of the current individualized education program.~~
  - ~~(iii) Graduation.~~
  - ~~(iv) Additional evaluation.~~

**R 340.1722d ~~Three year evaluation of eligible handicapped persons. RESCIND~~**

~~—Rule 22d. (1) Each eligible student who has a disability shall be provided with a comprehensive evaluation as described in R 340.1721a at least once every 36 months. The evaluation shall be completed by a multidisciplinary evaluation team and the results shall be presented at an individualized educational planning committee meeting pursuant to R 340.1721d(2)(a). The evaluation requires that an assessment take place to make accurate and effective decisions. A student shall be assessed in all areas related to the suspected disability and provide information to determine all of the following:~~

- ~~(a) The continued need for special education services.~~
- ~~(b) The effectiveness of the student's educational plan.~~
- ~~(c) The current needs of the student.~~
- ~~(d) The student's eligibility for special education.~~
- ~~(2) Parent input shall be sought as part of the reevaluation process. Parent consent is encouraged, but is not necessary, for the comprehensive evaluation, unless medical or personality testing is required. The comprehensive 3-year reevaluation need not include a redetermination of the student's previously established medical condition if a physician, as required pursuant to R 340.1707, R 340.1708, R 340.1709, or R 340.1714, has provided a written statement to the school district that the student's medical condition is permanent. However, the medical condition shall be redetermined if requested by the student's parent or school personnel.~~

**R 340.1722e ~~Previous enrollment in special education.~~**



~~Rule 22e. If a student enrolled in a special education program in a school district or intermediate school district transfers to a new school district which necessitates a change in educational status, the student, with the written consent of the parent, shall be placed immediately in an appropriate special education program or service, for a period not to exceed 30 school days, during which time an individualized educational planning committee shall be convened by the new district of residence to review and possibly revise the person's individualized education program. This case shall have precedence over all other cases, except previous cases also being expedited under this rule.~~

~~(1) IF A STUDENT WHO CURRENTLY RECEIVES SPECIAL EDUCATION PROGRAMS OR SERVICES ENROLLS IN A NEW SCHOOL DISTRICT, THEN THE NEW DISTRICT SHALL DO EITHER OF THE FOLLOWING:~~

~~(A) WITH THE PARENT'S CONSENT, IMMEDIATELY IMPLEMENT THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM.~~

~~(B) WITH THE PARENT'S CONSENT, IMMEDIATELY PLACE THE STUDENT IN AN APPROPRIATE PROGRAM OR SERVICE AND CONVENE AN INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING WITHIN 30 SCHOOL DAYS TO DEVELOP AN INDIVIDUALIZED EDUCATION PROGRAM.~~

~~(2) IF THE PARENT DOES NOT PROVIDE CONSENT FOR PLACEMENT, THEN THE DISTRICT WILL IMPLEMENT THE STUDENT'S CURRENT INDIVIDUALIZED EDUCATION PROGRAM TO THE EXTENT POSSIBLE AND AN INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING SHALL BE CONVENED TO DEVELOP A NEW INDIVIDUALIZED EDUCATION PROGRAM AS SOON AS POSSIBLE, BUT NOT LATER THAN 30 SCHOOL DAYS.~~

**R 340.1722f Time limitation. RESCIND**

~~— Rule 22f. Any time limitation in this part shall be construed and applied so as to do substantial justice and may be varied upon approval of the state board of education, or its designee, for good cause shown, in writing, by either the public agency or the parent. A copy of the request shall be sent by the superintendent or parent, as the case may be, to the other party, and the state board's response shall be directed to both the superintendent and the parent.~~

**R 340.1723 Right to examine records. RESCIND**

~~— Rule 23. (1) The parents of a handicapped or suspected handicapped person shall have the right to inspect and review all educational records with respect to both of the following:~~

~~(a) — The identification, evaluation, program, and educational placement of the person.~~

~~(b) — The provision of a free appropriate public education to the person.~~

~~(2) — Parents have the right to request a copy of any or all contents of their child's educational records subject to R 340.1866.~~

**R 340.1723a Prior notice; parental consent. RESCIND**

~~— Rule 23a. (1) Written notice that meets the requirements of R 340.1723b shall be given to the parents of a person who is disabled or who is suspected to be disabled 10 calendar days before the public agency does either of the following:~~

~~(a) — Proposes to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the person who is disabled.~~

~~(b) — Refuses to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the person who is disabled.~~

~~(2) — Parental consent shall be obtained before doing either of the following:~~

~~(a) — Conducting a preplacement evaluation;~~

~~(b) — Initially providing special education and related services to a person who is disabled.~~

~~(3) — The public agency may use the hearing procedures in R 340.1724 to R 340.1724b to determine if the person may be evaluated or initially provided special education and related services without parental consent. If the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the person without the parent's consent, subject to the parent's rights under R 340.1725 and R 340.1725a.~~

**R 340.1723b Content of notice required pursuant to R 340.1723a. RESCIND**

~~— Rule 23b. (1) The notice required in R 340.1723a shall include all of the following information:~~

~~(a) — A full explanation of all of the procedural safeguards that are available to the parents under part 2 of these rules and the provisions of 34 C.F.R. §300.500 to 300.534 (1992).~~

~~(b) — A description and explanation of the action proposed or refused by rule number and title of the program or service, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected.~~

~~(c) — A description of each evaluation procedure, test, record, or report that the agency used as a basis for the proposal or refusal.~~

~~(d) — A description of any other factors that are relevant to the agency's proposal or refusal.~~

~~(2) — The notice shall be in compliance with both of the following requirements:~~

~~(a) — It shall be written in language that is understandable to the general public.~~

~~(b) — It shall be provided in the native language of the parent, unless it is clearly not feasible to do so.~~

~~(3) — If the native language of the parent is not a written language, the agency shall take steps to insure all of the following:~~

~~(a) — That the notice is translated orally or by other means to the parent in their native language.~~

~~(b) — That the parent understands the content of the notice.~~

~~(c) — That there is written evidence that the requirements in subdivisions (a) and (b) of this subrule have been met.~~

**R 340.1723c Right to independent educational evaluation.**

Rule 23c. ~~(1) The parents of a handicapped person or suspected handicapped person shall have the right pursuant to this part to obtain an independent educational evaluation, as defined in R 340.1701a(a), pursuant to the provisions of this subrule and subrules (2) to (7) of this rule.~~

~~(2)~~(1) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information shall include all of the following:

- (a) Criteria regarding credentials for qualified examiners.
- (b) Suggested sources and locations.
- (c) Procedures for reimbursement.
- (d) Reasonable expected costs.
- (e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.

~~(3)~~(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. The parent shall submit the parent's disagreement and request in written, signed, and dated form. However, the public agency may initiate a hearing pursuant to the provisions of UNDER R 340.1724 to show that its evaluation is appropriate. The public agency shall respond, in writing, to the request within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure pursuant to the provisions of UNDER R 340.1724. If the hearing officer determines that the evaluation is appropriate, THEN the parent still has the right to an independent educational evaluation, but not at public expense.

~~(4) If the parent obtains an independent evaluation at the parent's own expense, the results of the evaluation shall be considered by the public agency and the individualized educational planning committee in any decision made with respect to the provision of a free appropriate public education to the person and may be presented as evidence at a hearing.~~

~~(5) If a hearing officer orders an independent educational evaluation as part of a hearing, the cost of the evaluation so ordered shall be at public expense.~~

~~(6) When an independent evaluation is at public expense, including those instances when the parent elects to use sources other than those identified by the public agency, the independent evaluator shall have the necessary credentials. The criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the public agency uses when it initiates an evaluation. The associated costs shall be reasonably in accord with those identified by the public agency pursuant to subrule (2) of this rule.~~

~~(7)~~(3) The school district shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent EDUCATIONAL evaluation.

~~(8)~~(4) An independent EDUCATIONAL evaluation shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner or examiners are agreeable to the parent.

#### **R 340.1724 Impartial due process hearing.**

Rule 24. (1) A parent, the district of residence, the district of operation, THE MICHIGAN SCHOOLS FOR THE DEAF AND BLIND, or the department may initiate a hearing on any of the matters ~~described in R 340.1723a(1)(a) and (b) and (2).~~ PERTAINING TO THE IDENTIFICATION, EVALUATION, EDUCATIONAL PLACEMENT OF THE STUDENT, OR THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION. The party initiating a hearing shall notify the other parties, IN WRITING, of its intent to initiate the hearing.

(2) The hearing shall be arranged or conducted by the district of residence ~~of the person~~, and the district of residence shall pay all direct costs incurred by the school district as a result of arranging or conducting the hearing.

~~(3) The district of residence shall inform the parent, in writing, of any free or low cost legal or other relevant services available in the area if the parent requests the information or if the parent or the agency initiates a hearing under this rule.~~

~~(4)(3) Before the appointment OR SELECTION of, or contracting with, a hearing officer, the hearing or procedure may be suspended, delayed, or terminated at any point upon written stipulation by the public agency and the parent without approval by the department. THE AGENCY RESPONSIBLE FOR THE HEARING SHALL SUBMIT THE WRITTEN STIPULATION TO THE DEPARTMENT. After the appointment or contract SELECTION OF A HEARING OFFICER, the hearing may still be DELAYED WITH THE APPROVAL OF THE HEARING OFFICER OR terminated UPON WRITTEN STIPULATION OF THE by public agency and THE parent stipulation without approval of the department or hearing officer; however, delays, suspensions, or adjournments of the procedure require prior approval of the hearing officer. A copy of the stipulation to terminate shall be provided to the hearing officer AND TO THE DEPARTMENT.~~

~~(5) Interpreters shall be provided for persons of limited English speaking ability and for the deaf.~~

~~(6) Each public agency responsible for arranging or conducting a hearing shall produce a written, verbatim transcript of the hearing, and, upon request of the hearing officer or any party to the hearing, shall provide the requester with a copy of the transcript within the period of time required for the written decision of the hearing officer.~~

~~(7)(4) Each public agency responsible for arranging or conducting a hearing shall immediately forward to the department 2 copies of the hearing decision; 1 with all personal identifiers pertaining to the student deleted and 1 with personal identifiers included.~~

~~(8) The department, upon receipt, shall transmit to the special education advisory committee, a copy of each hearing decision with personal identifiers deleted.~~

~~(9) (5) The department shall send a copy of the decision to the intermediate school district with a notice to inform the department that the decision has been implemented pursuant to R 340.1725b(8).~~

(6) ANY PARTY WHO IS AGGRIEVED BY THE FINDINGS AND THE DECISION OF A HEARING CONDUCTED UNDER THIS RULE MAY APPEAL TO THE DEPARTMENT WITHIN 25 CALENDAR DAYS OF RECEIPT OF THE DECISION FOR A STATE REVIEW. THE APPEALING PARTY SHALL SEND A COPY OF THE PARTY'S APPEAL TO THE OTHER PARTY. THE DEPARTMENT OF EDUCATION SHALL ADOPT PROCEDURES FOR APPOINTMENT OF REVIEW OFFICERS AND AN APPEAL PROCESS.

(7) IN THE ABSENCE OF AN APPEAL, UNLESS OTHERWISE SPECIFIED IN THE HEARING OFFICER'S DECISION OR THE REVIEWING OFFICIAL'S DECISION, THE DECISION SHALL BE IMPLEMENTED BY THE PUBLIC AGENCY WITHIN 15 SCHOOL DAYS OF THE AGENCY'S RECEIPT OF THE DECISION.

**R 340.1724a Impartial hearing officer; appointment.**

Rule 24a. (1) The superintendent of the public agency shall contract for the services of an impartial hearing officer who is mutually agreeable to both parties or who has been appointed by the department. If the parent and the public agency cannot agree on a hearing officer WITHIN 14 CALENDAR DAYS FOLLOWING THE HEARING REQUEST, THEN the superintendent shall IMMEDIATELY request that the department appoint an impartial hearing officer ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT.

(2) A hearing shall not be conducted by ~~any of the following individuals:~~

~~(a) A person who is an employee of a public agency involved in the education or care of the person.~~

~~(b) Any person with a personal or professional interest which would conflict with the person's objectivity in the hearing.~~

~~(c) An AN employee or board member of the involved local school district, of another local SCHOOL district within the same intermediate school district, OF A PUBLIC SCHOOL ACADEMY WITHIN THE SAME INTERMEDIATE SCHOOL DISTRICT, or of the intermediate school district of which the involved local SCHOOL district is a part.~~

~~(3) A person who qualifies to conduct a hearing under subrule (2) of this rule is not an employee of the agency solely because the person is contracted to serve as the hearing officer.~~

(4)(3) Each public agency shall keep a current department-developed and department-distributed list of the persons TRAINED AS HEARING OFFICERS ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT who serve as hearing officers. This list shall be provided to parents upon any request for a hearing. The list shall include a statement of qualifications of each of ~~those~~ THE LISTED persons.

**R 340.1724b Hearing rights. RESCIND**

~~Rule 24b. (1) Any party to a hearing has all of the following rights:~~

~~(a) The right to be represented, accompanied, and advised by counsel and by individuals who have special knowledge or training with respect to the problems of persons with disabilities.~~

~~(b) The right to present evidence and confront, cross-examine, and compel the attendance of witnesses.~~

~~(c) The right to prohibit the introduction of any evidence or the direct testimony of any witness if the evidence or testimony has not been disclosed to the party at least 5 calendar days before the hearing.~~

~~(d) The right to obtain a written or electronic verbatim record of the hearing.~~

~~(e) The right to obtain written findings of fact and decisions.~~

~~(2) The parent may request and obtain alternate forms of the verbatim record to be provided in the parent's native language.~~

- ~~(3) — Parents who are involved in hearings have both of the following rights:~~  
~~(a) — The right to open the hearing to the public.~~  
~~(b) — The right to have the person who is the subject of the hearing present.~~  
~~(4) — The decision made by the hearing officer is final, unless a party appeals pursuant to the provisions of R 340.1725.~~

**New Rule:**

**R 340.1724c    ~~Rescinded.~~    EXPEDITED HEARINGS.**

Rule 24c. (1) THE EXPEDITED HEARING PROCESS SHALL BE A 1-TIER HEARING PROCESS. THE SUPERINTENDENT OR CHIEF EXECUTIVE OFFICER OF EACH PUBLIC AGENCY SHALL CONTRACT FOR THE SERVICES OF A MUTUALLY AGREED UPON IMPARTIAL SPECIAL EDUCATION HEARING OFFICER WITHIN 5 BUSINESS DAYS OF RECEIPT OF A WRITTEN REQUEST FOR AN EXPEDITED HEARING.

(2) IF THE PARTIES TO AN EXPEDITED HEARING CANNOT MUTUALLY AGREE ON THE SELECTION OF AN IMPARTIAL SPECIAL EDUCATION HEARING OFFICER, THEN THE PUBLIC AGENCY SHALL REQUEST THE DEPARTMENT TO IMMEDIATELY APPOINT A SPECIAL EDUCATION HEARING OFFICER FROM THE CURRENT DEPARTMENT-DEVELOPED AND DEPARTMENT-DISTRIBUTED LIST OF THE PERSONS WHO SERVE AS HEARING OFFICERS AS REQUIRED BY R 340.1724a(3).

(3) EXPEDITED HEARINGS SHALL ADDRESS ONLY THOSE ISSUES OF DISAGREEMENT RELATING TO ANY OF THE FOLLOWING:

(A) A DETERMINATION THAT A STUDENT'S BEHAVIOR WAS NOT A MANIFESTATION OF THE STUDENT'S DISABILITY.

(B) A DECISION REGARDING THE PROVISION OF AN APPROPRIATE INTERIM ALTERNATIVE EDUCATIONAL SETTING.

(C) SEEKING AN INTERIM ALTERNATIVE SETTING FOR NOT MORE THAN 45 DAYS FOR A STUDENT WHO MAY DEMONSTRATE POTENTIAL HARMFUL OR INJURIOUS BEHAVIOR TO HIMSELF, HERSELF, OR OTHERS.

(4) THE PARTIES TO AN EXPEDITED HEARING SHALL, WITHIN 5 BUSINESS DAYS BEFORE THE HEARING, PROVIDE TO THE OTHER PARTY WITH A LIST OF POTENTIAL WITNESSES, ANY DOCUMENTS TO BE USED AS EVIDENCE, INCLUDING, BUT NOT LIMITED TO, ANY PERTINENT EVALUATIONS AND RECOMMENDATIONS.

(5) THE SPECIAL EDUCATION HEARING OFFICER HAS THE AUTHORITY TO RULE ON A REQUEST TO BAR ANY EVIDENCE TO BE USED IN AN EXPEDITED HEARING NOT DISCLOSED TO THE OTHER PARTY AT LEAST 5 BUSINESS DAYS BEFORE THE EXPEDITED HEARING ONLY WHEN THE INTRODUCTION OF EVIDENCE IS DISPUTED BY THE OTHER PARTY.

(6) THE SPECIAL EDUCATION HEARING OFFICER SHALL RENDER AND MAIL A FINAL DECISION TO ALL PARTIES WITHIN 45 CALENDAR DAYS AFTER THE RECEIPT OF THE WRITTEN REQUEST FOR AN EXPEDITED HEARING FROM THE SUPERINTENDENT OR HIS OR HER DESIGNEE WITHOUT EXCEPTIONS OR TIME EXTENSIONS.

(7) ANY PARTY TO THE EXPEDITED HEARING WHO IS AGGRIEVED BY THE DECISION OF THE HEARING OFFICER MAY APPEAL THE DECISION TO A COURT OF COMPETENT JURISDICTION.

**R 340.1724d Mediation.**

Rule 24d. (1) ~~Any party to a hearing, before the hearing,~~ A PARENT OR AGENCY may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties OF A DISPUTE THAT MIGHT BE THE SUBJECT OF A COMPLAINT UNDER PART 8 OF THE RULES OR A DUE PROCESS HEARING.

(2) The mediator shall be subject to mutual agreement by the parties, ~~except that the same person shall not mediate and hear the same dispute.~~

(3) ~~The mediation shall have no effect on the normal progress of the case toward a hearing, except in accordance with R 340.1724(4).~~ THE STATE BOARD SHALL APPROVE PROCEDURES REGARDING THE MEDIATION PROCESS.

(4) ~~If all the parties accept the mediator's recommendations, the mediator shall submit the written report to all parties. Within 5 school days of receipt of the report, an individualized educational planning committee shall be convened to incorporate the agreement into the individualized education program.~~

(5) ~~If any party rejects the mediator's recommendations, the case shall proceed to hearing in the normal fashion.~~

**R 340.1725 Administrative appeal; impartial review. RESCIND**

~~— Rule 25. (1) Any party who is aggrieved by the findings and the decision of a hearing conducted pursuant to the provisions of R 340.1724 may appeal to the department within 25 calendar days of receipt of the decision for a state review. The appealing party shall send a copy of the party's appeal to the other party~~

(2) ~~If there is an appeal, the department shall conduct an impartial review of the hearing. The official who conducts the review shall do all of the following:~~

(a) ~~Examine the entire hearing record, which shall be provided to the state by the public agency in written verbatim form.~~

(b) ~~Ensure that the procedures at the hearing were consistent with the requirements of due process.~~

(c) ~~Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights specified in R 340.1724b apply.~~

(d) ~~Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.~~

(e) ~~Make an independent decision on completion of the review. The reviewing officer may affirm, reverse, or modify the decision of the hearing officer.~~

(f) ~~Give a copy of the written findings and the decision to the parties, subject to the provisions of R 340.1723b(2) and (3).~~

(g) ~~Send a copy of the decision to the intermediate school district with a notice to inform the department when the decision has been implemented pursuant to the provisions of R 340.1725b(8).~~

(3) ~~The decision made by the reviewing official is final, unless a party brings a civil action pursuant to the provisions of R 340.1725a.~~

**R 340.1725a Civil action. RESCIND**

—Rule 25a. (1) Any party aggrieved by the findings and decision made in a hearing and who does not have the right to appeal under R 340.1725, and any party aggrieved by the decision of a reviewing officer under R 340.1725, shall have the right to bring a civil action with respect to the issue presented pursuant to this rule without regard to the amount in controversy. A civil action may be brought in any court of competent jurisdiction.

**R 340.1725b Time lines and convenience of hearings and reviews. RESCIND**

—Rule 25b. (1) A hearing shall be scheduled not less than 15, nor more than 30, calendar days following receipt of the request from a parent or the public agency.

(2) The hearing officer shall, not later than 30 calendar days after the hearing, do both of the following:

(a) Reach a final decision regarding the hearing.

(b) Send a copy of the decision, by certified mail, receipt requested, to each of the parties and to the department.

(3) The total number of days stipulated in subrules (1) and (2) of this rule shall not be more than 45 calendar days.

(4) The department, upon receipt of a written request for a review, and upon the receipt of the transcripts and exhibits, shall insure that within 30 calendar days a final decision is reached in the review and a copy of the decision is sent, by certified mail, receipt requested, to each of the parties.

(5) Each hearing and each review involving oral arguments shall be conducted at a time and place reasonably convenient to the parties involved.

(6) In the absence of an appeal, unless otherwise specified in the hearing officer's decision or the reviewing official's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

**R 340.1725c Student's status during proceedings. RESCIND**

—Rule 25c. (1) During the pendency of any administrative or judicial proceeding pertinent to this part, unless the public agency and the parents of the person agree otherwise, the person involved in the hearing shall remain in their present educational placement.

(2) If the hearing involves an application for initial admission to a public school, the person, with the consent of the parents, shall be placed in the public school program until the completion of all of the proceedings.

**R 340.1725d Protecting students' rights. RESCIND**

—Rule 25d. Each public agency shall assure that handicapped persons under the age of 18 have a parent or legal guardian to represent their interests. If no parent or legal guardian, as defined in R 340.1701a(i) can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian.

**R 340.1725e Hearing officer or state reviewing official; duties and authority.**



Rule 25e. (1) ~~In addition to the authority implied by the hearing rights stipulated GRANTED PARTIES in R 340.1724b,~~ The hearing officer or state reviewing official has the authority to do all of the following:

(A) ADMINISTER OATHS AND AFFIRMATIONS.

(B) SIGN AND ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND GIVING OF TESTIMONY BY WITNESSES AND THE PRODUCTION OF DOCUMENTS.

(C) PROVIDE FOR THE TAKING OF TESTIMONY.

~~(a)~~ (D) Require a prehearing conference ~~to clarify matters pertaining to the hearing,~~ IF APPROPRIATE, TO CONSIDER AND TAKE ACTION REGARDING ANY OF THE FOLLOWING:

(I) THE FORMULATION AND SIMPLIFICATION OF THE ISSUES.

(II) ADMISSIONS OF FACT AND DOCUMENTS THAT WILL AVOID UNNECESSARY TESTIMONY.

(III) THE NEED AND SCHEDULING FOR THE FILING OF MOTIONS, BRIEFS, AND DATES FOR FURTHER CONFERENCES AND THE HEARING.

(IV) SETTLEMENT, WHICH MAY INCLUDE ENCOURAGING THE USE OF MEDIATION OR OTHER ALTERNATIVE DISPUTE RESOLUTION OPTIONS.

(V) THE FILING AND DISPOSITION OF REQUESTS OR MOTIONS.

(VI) ESTABLISHING A REASONABLE LIMIT ON THE TIME ALLOWED FOR PRESENTING EVIDENCE.

(VII) OTHER MATTERS AS MAY FACILITATE THE DISPOSITION OF THE HEARING.

~~(b) Specify those uncontested portions of the student's individualized educational program only if necessary to assure that the decision can be implemented.~~

~~(e)~~ (E) Control the conduct of parties or participants in the hearing for the purpose of assuring an orderly procedure.

~~(d)~~ (F) Grant a specific extension of time at the request of either party for good cause.

(2) The hearing officer shall disclose to both parties any relationship of a professional or personal nature that might have a bearing on the hearing officer's ability to conduct a fair hearing or render an impartial decision and shall consider motions to disqualify himself or herself.

(3) THE HEARING OFFICER MAY ADMIT AND CONSIDER EVIDENCE OF A TYPE COMMONLY RELIED UPON BY REASONABLY PRUDENT PERSONS IN THE CONDUCT OF THEIR AFFAIRS. IRRELEVANT, IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE MAY BE EXCLUDED. EFFECT SHALL BE GIVEN TO THE RULES OF PRIVILEGE RECOGNIZED BY LAW.

### **R 340.1725F SURROGATE PARENT.**

RULE 25F. EACH PUBLIC AGENCY SHALL TRAIN PERSONS TO SERVE AS SURROGATE PARENTS AND APPOINT PERSONS TO SERVE AS SURROGATE PARENTS IN ACCORDANCE WITH PROCEDURES APPROVED BY THE STATE BOARD OF EDUCATION.

## **PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES**

**R 340.1732 Designation of residency.**

~~Rule 32.(1) A handicapped person under 26 years of age as of September 1 who habitually sleeps, keeps personal effects and regularly lodges at a place not for the purpose of securing a suitable home but for an educational purpose, or who is lodged at a place as directed by an agency or institution under the auspices of a juvenile or probate court, the department of mental health, or the department of social services, such as a private home, group home, or a private or public institution, is a resident of the school district in which the person's parents reside, except in the following situations:~~

~~(a) — The parents are legally separated or divorced, in which case the person is a resident of the district in which the parent having custody resides.~~

~~(b) — A guardian has been appointed to provide the handicapped person with a suitable education, in which case the person is a resident of the district in which the guardian resides.~~

~~(c) — The handicapped person, has no living parent or a guardian, or the parents reside out of the state, in which case the person is a resident of the district in which the probate court having control or custody is located.~~

~~(2) — A handicapped person, who is not covered in subrule (1), of this rule and who is under 26 years of age as of September 1 is a resident of the school district in which the person habitually sleeps, keeps personal effects, and has a regular place of lodging for the purpose of securing a suitable home and not solely for an educational purpose.~~

~~(3) — Notwithstanding the provisions of subrules (1) and (2) of this rule, if the handicapped person placed under the order or direction of a court or child placement agency is lodged in a state institution, a licensed foster home, a licensed nursing home, or a licensed group residential facility, then the local school district in which the institution, home, or facility is located shall provide for the delivery of special education programs and services to the handicapped person pursuant to section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled laws. The handicapped person shall be deemed to be a resident of the local district for the purpose of record maintenance required by section 1757 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1757 of the Michigan Compiled Laws and for the purpose of providing for the delivery of special education programs and services; however, for all other purposes, including funding, the handicapped person's residence shall be determined pursuant to subrules (1) and (2) of this rule.~~

~~(4) — Notice of a disagreement between 2 or more school districts as to the residency of a handicapped person shall be sent to the department by a school district involved. The notice shall include the names of all of the school districts allegedly involved and the name and address of the parent, the guardian, or the handicapped person if over 18 years of age. The department, or its representative, shall immediately notify the school districts allegedly involved and the parent, guardian, or handicapped person of the receipt of notice of a disagreement. Within 7 calendar days of receipt of notice, all parties shall provide the department with their position and appropriate facts in support thereof. The department, or its representative, within 14 calendar days of receipt of notice of a disagreement, shall investigate the matter, consider the information received from the parties involved, and make a determination as to the residency of the handicapped person. A copy of the~~

~~department's determination shall be sent to each party involved. Upon demonstration, in writing, of just cause by any party involved, the state board of education or its designee may extend the time limits set forth in this subrule.~~

A STUDENT WITH A DISABILITY IS A RESIDENT OF ONE DISTRICT IN WHICH THE STUDENT HAS ENROLLED, AND IN WHICH AT LEAST 1 OF THE STUDENT'S PARENTS RESIDES. IF THE PARENTS ARE LEGALLY SEPARATED OR DIVORCED AND RESIDE IN DIFFERENT SCHOOL DISTRICTS, THEN THE STUDENT WITH A DISABILITY MAY ENROLL IN 1 OF THE DISTRICTS WHERE EITHER PARENT RESIDES, REGARDLESS OF THE DISTRICT OF RESIDENCE OF THE PARENT HAVING CUSTODY. THE DISTRICT IN WHICH THE STUDENT HAS ENROLLED REMAINS THE STUDENT'S RESIDENT DISTRICT EVEN WHEN EITHER OF THE FOLLOWING OCCURS:

(A) THE STUDENT WITH A DISABILITY SLEEPS, KEEPS PERSONAL EFFECTS, AND REGULARLY LODGES IN A DISTRICT OTHER THAN THE DISTRICT IN WHICH A PARENT RESIDES, FOR AN EDUCATIONAL PURPOSE, NOT FOR THE PURPOSE OF SECURING A SUITABLE HOME.

(B) THE STUDENT WITH A DISABILITY IS LODGED IN A DISTRICT OTHER THAN THE DISTRICT IN WHICH A PARENT RESIDES AS DIRECTED BY AN AGENCY OR INSTITUTION UNDER THE AUSPICES OF A COURT, DEPARTMENT OF COMMUNITY HEALTH, OR BY THE FAMILY INDEPENDENCE AGENCY IN A FACILITY SUCH AS A PRIVATE HOME, GROUP HOME, OR A PRIVATE OR PUBLIC INSTITUTION.

(2) THE FOLLOWING SITUATIONS ARE EXCEPTIONS TO THE PROVISIONS OF SUBRULE (1) OF THIS RULE:

(A) WHEN A GUARDIAN HAS BEEN APPOINTED TO PROVIDE THE STUDENT WITH A DISABILITY WITH A SUITABLE EDUCATION, THE STUDENT IS A RESIDENT OF THE DISTRICT IN WHICH THE GUARDIAN RESIDES.

(B) WHEN THE STUDENT WITH A DISABILITY IS UNDER THE CONTROL OR CUSTODY OF THE FAMILY DIVISION OF CIRCUIT COURT AND IS A WARD OF THE STATE, HAS NO LIVING PARENT (OR GUARDIAN) OR THE PARENTS RESIDE OUT OF THE STATE, THEN THE STUDENT IS A RESIDENT OF THE DISTRICT IN WHICH THE FAMILY DIVISION OF CIRCUIT COURT IS LOCATED.

(3) A STUDENT WITH A DISABILITY WHO IS NOT COVERED IN SUBRULE (1) OR (2) OF THIS RULE IS A RESIDENT OF THE SCHOOL DISTRICT IN WHICH THE STUDENT HABITUALLY SLEEPS, KEEPS PERSONAL EFFECTS, AND HAS A REGULAR PLACE OF LODGING FOR THE PURPOSE OF SECURING A SUITABLE HOME AND NOT SOLELY FOR AN EDUCATIONAL PURPOSE.

(4) NOTWITHSTANDING THE PROVISIONS OF SUBRULES (1), (2), AND (3) OF THIS RULE, ALL OF THE FOLLOWING PROVISIONS APPLY WHEN THE STUDENT WITH A DISABILITY IS PLACED UNDER THE ORDER OR DIRECTION OF A COURT OR CHILD PLACEMENT AGENCY AND IS LODGED IN A STATE INSTITUTION, LICENSED FOSTER HOME, LICENSED NURSING HOME, OR LICENSED GROUP RESIDENTIAL FACILITY:

(A) THE LOCAL SCHOOL DISTRICT IN WHICH THE INSTITUTION, HOME, OR FACILITY IS LOCATED SHALL PROVIDE FOR THE DELIVERY OF SPECIAL

EDUCATION PROGRAMS AND SERVICES TO THE STUDENT WITH A DISABILITY PURSUANT TO SECTION 1751 OF 1976 PA 451, MCL 380.1751.

(B) THE STUDENT WITH A DISABILITY SHALL BE DEEMED TO BE A RESIDENT OF THE LOCAL SCHOOL DISTRICT FOR THE PURPOSES OF RECORD MAINTENANCE REQUIRED BY SECTION 1757 1976 PA 451, MCL 380.1757.

(C) FOR ALL OTHER PURPOSES, INCLUDING FUNDING, THE STUDENT'S RESIDENCE SHALL BE DETERMINED UNDER SUBRULES (1), (2), AND (3) OF THIS RULE.

(5) WHEN A DISAGREEMENT OCCURS BETWEEN 2 OR MORE SCHOOL DISTRICTS AS TO THE RESIDENCY OF A STUDENT WITH A DISABILITY, THEN ALL OF THE FOLLOWING PROCEDURES APPLY:

(A) NOTICE SHALL BE SENT TO THE DEPARTMENT BY A SCHOOL DISTRICT INVOLVED. THE NOTICE SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

(I) THE NAMES OF ALL OF THE SCHOOL DISTRICTS ALLEGED AS RESIDENT.

(II) THE NAME OF THE STUDENT INVOLVED.

(III) THE NAME AND ADDRESS OF THE PARENT OR GUARDIAN, OR ADDRESS OF THE STUDENT IF THE STUDENT IS OVER 18 YEARS OF AGE.

(B) THE DEPARTMENT OR ITS REPRESENTATIVE SHALL IMMEDIATELY NOTIFY THE SCHOOL DISTRICTS INVOLVED AND THE PARENT, GUARDIAN, OR STUDENT OF THE RECEIPT OF NOTICE OF DISAGREEMENT.

(C) WITHIN 7 CALENDAR DAYS OF RECEIPT OF NOTICE FROM THE DEPARTMENT, ALL PARTIES SHALL PROVIDE THE DEPARTMENT WITH A WRITTEN STATEMENT OF THEIR POSITION AND SUPPORTING FACTS.

(D) WITHIN 14 CALENDAR DAYS OF THE RECEIPT OF A NOTICE OF A DISAGREEMENT FROM A DISTRICT, THE DEPARTMENT SHALL INVESTIGATE THE MATTER, CONSIDER INFORMATION RECEIVED FROM THE PARTIES INVOLVED, AND MAKE A DETERMINATION AS TO THE RESIDENCY OF THE STUDENT. A COPY OF THE DETERMINATION SHALL BE IMMEDIATELY SENT TO EACH PARTY INVOLVED.

(E) UPON A WRITTEN DEMONSTRATION OF JUST CAUSE BY ANY PARTY INVOLVED, THE STATE BOARD OF EDUCATION OR ITS DESIGNEE MAY EXTEND THE TIME LIMITS SET FORTH IN THIS SUBRULE.

**R 340.1733 Program and service requirements; effective dates.**

Rule 33. An intermediate school district, local SCHOOL district, PUBLIC SCHOOL ACADEMY, and any other agency shall adhere to ALL OF the following general requirements for all programs and services for ~~persons who are disabled~~ STUDENTS WITH DISABILITIES:

(a) Special education classrooms OR AREAS WHERE RELATED SERVICES ARE PROVIDED shall have at least the same average number of square feet per student, light, ventilation, and heat conditions as ~~regular~~ PROVIDED FOR GENERAL EDUCATION ~~classrooms~~ STUDENTS in the school district.

~~(b) Special education classrooms shall be located in schools housing regular education pupils of comparable age and grade level. Each person who is disabled shall be assigned to~~

~~educational programs and services housed in buildings that allow persons who are disabled to participate fully in regular and special education programs, services, or extracurricular activities. Nothing in these rules shall prohibit special education programs, such as specialized vocational training or programs for more severely involved impairment areas, to be housed in places other than the schools with regular education programs, if such programs are set forth in the intermediate school district plan and are approved by the state board of education.~~

~~(c) — Instructional and related service personnel shall have space which is appropriate for the kind of service being delivered and shall be designated on a scheduled basis in each building to afford individual and small group work. Light, ventilation, and heat conditions shall be the same as in classrooms within the building.~~

~~(d) — Severely mentally impaired and severely multiply impaired special education classrooms with students under 16 years of age shall not exceed a 6-year age span at any one time. All other special education classrooms which have students under 16 years of age and which are operated in separate facilities shall not exceed a 4-year age span at any one time. The age span for students who are assigned to special education classrooms, except severely mentally impaired and severely multiply impaired, operated in elementary buildings attended by children who are nondisabled shall not exceed, at any one time, a 6-year age span or the age span of the students who are nondisabled in the building, whichever is less. The age span for students who are assigned to special education classrooms, except severely mentally impaired and severely multiply impaired, operated in secondary buildings attended by students who are nondisabled shall not exceed, at any one time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. The term "nondisabled" shall not include persons participating in adult education programs. All severely mentally impaired, severely multiply impaired, and trainable mentally impaired programs shall comply with this subdivision unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.~~

~~(e) — The special education programs' and services' methods of instruction shall be consistent with the short-term instructional objectives written for each person who is disabled.~~

~~(f) — The instructional program for a school day shall focus on the individual needs of each person who is disabled, as determined through the individualized education programs.~~

~~(g) — Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the pupil accounting rules, being R 340.1 to R 340.12, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.~~

~~(h)(B) Persons who are disabled STUDENTS WITH DISABILITIES qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in regular GENERAL education programs, in addition to those supplies and equipment necessary to meet their defined short-term~~

~~instructional objectives~~ IMPLEMENT A STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM.

~~(i) Physical therapy service shall be provided to a person who is disabled if prescribed by an appropriate medical authority and recommended by the individualized educational planning committee as an essential component of the educational program.~~

~~(j) Physical education services, specially designed if necessary, shall be made available to every student who is disabled. Each student who is disabled shall be afforded the opportunity to participate in the regular physical education program available to students who are nondisabled, unless the student is enrolled full-time in a separate facility or needs specially designed physical education as prescribed in the student's individualized education program.~~

~~(k) The expense of additional diagnostic services recommended by the individualized educational planning committee and required by the school district, including neurological, medical, psychiatric, and other professional services not provided by the school district or other public agencies nor covered by medical insurance, shall be borne by the disabled person's district of residence.~~

~~(l) Intermediate school districts or local districts may operate, or contract for, any of the following:~~

~~(i) Vocational evaluation services.~~

~~(ii) Work activity center services.~~

~~(iii) Ancillary and other related services.~~

~~(iv) Instructional services.~~

~~(m) Intermediate school districts or local districts, or a combination of such districts, shall provide work study services and may assign special education personnel, such as a work study coordinator, to supervise these services. A written work study plan, signed by the parent, school, and employer, shall set forth all of the following information:~~

~~(i) Educational goals.~~

~~(ii) Job activities.~~

~~(iii) Related subjects.~~

~~(iv) Standards of attainment.~~

~~(v) Time and duration of the program.~~

~~(vi) Wages to be paid to the person who is disabled.~~

~~The superintendent of the district shall designate a staff member to visit the person and the person's supervisor at the job site at least once every 20 school days to check attendance, evaluate the disabled person's progress, and evaluate the placement in terms of the health, safety, and welfare of the person who is disabled. These services, if determined to be appropriate by the individualized educational planning committee, shall be available to each student who is disabled, regardless of disability, if personal adjustment training, prevocational education, and vocational education have been provided.~~

(C) INTERMEDIATE SCHOOL DISTRICTS, LOCAL SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES, OR A COMBINATION OF SUCH AGENCIES IN COOPERATION WITH PUBLIC AND PRIVATE ENTITIES, SHALL PROVIDE OR CONTRACT FOR THE PROVISION OF TRANSITION SERVICES. SPECIAL EDUCATION TEACHERS SHALL BE ASSIGNED TO SUPERVISE SUCH SERVICES.

PROFESSIONAL SPECIAL EDUCATION PERSONNEL, A TRANSITION COORDINATOR, OR BOTH, SHALL COORDINATE TRANSITION SERVICES.

(i) FOR WORKSITE-BASED LEARNING, A WRITTEN AGREEMENT/PLAN IS REQUIRED AND SHALL BE DESIGNED BY THE STUDENT, PARENT, SCHOOL, AND WORKSITE REPRESENTATIVE. THE AGREEMENT SHALL SET FORTH ALL OF THE FOLLOWING INFORMATION.

(A) EXPECTATIONS AND STANDARDS OF ATTAINMENT.

(B) JOB ACTIVITIES.

(C) TIME AND DURATION OF THE PROGRAM.

(D) WAGES TO BE PAID TO THE STUDENT, IF APPLICABLE.

(E) RELATED INSTRUCTIONS, IF APPLICABLE.

(ii) THE SUPERINTENDENT OF THE SCHOOL DISTRICT SHALL DESIGNATE A STAFF MEMBER TO VISIT THE STUDENT'S WORKSITE AT LEAST ONCE EVERY 30 CALENDAR DAYS FOR THE DURATION OF THE PROGRAM TO CHECK ATTENDANCE, STUDENT PROGRESS, AND ASSESS THE PLACEMENT IN TERMS OF HEALTH, SAFETY, AND WELFARE OF THE STUDENT.

~~(n) Personnel development shall be conducted pursuant to findings of an annual needs assessment. The training shall be made available to both special and regular education personnel. The persons providing training, which may be district, university or agency, teacher center, or state department based, may include persons with disabilities and parents of persons with disabilities, as well as special and regular education personnel. The training programs to be delivered shall include all of the following if appropriate:~~

~~(i) Requirements and procedures of state and federal mandatory education acts.~~

~~(ii) Placement and education of the person who is disabled in the regular education curriculum, including the various aids and supportive services related thereto.~~

~~(iii) Affective education involving the importance of interaction with persons who are disabled on a peer level.~~

~~(o) Substitute instructional aides specified in R 340.1738, R 340.1739, and R 340.1748 shall be provided when assigned instructional aides are absent. In addition, teacher aides specified in R 340.1739 and R 340.1740 shall be provided when assigned teacher aides are absent.~~

~~(p)~~(D) Secondary special education teachers shall teach either special education courses approved for graduation by the local educational agency or special education courses within an approved special education curriculum.

~~(q) When an individualized educational planning committee determines that a student necessitates a categorical special education program, the student shall be assigned to a categorical program that corresponds to his or her primary disability. The program designation shall correspond to the special education teacher's endorsement which serves as the basis for the district's reimbursement pursuant to Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws, and known as the state school aid act of 1979. Placement in a program other than that which corresponds to the student's eligibility category may occur when the individualized educational planning committee includes, within the individualized educational program, a rationale for its determination and the parent consents to the alternative program. The public agency may use the hearing procedures in R 340.1724 to R 340.1724b when the parent refuses to~~

~~provide consent. If the hearing officer upholds the agency, the agency may proceed without the parents' consent, subject to the parents' rights under R 340.1725 and R 340.1725a.~~

~~(r) If a participating agency fails to provide agreed-upon transition services contained in the individualized education program of a student who has a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's individualized education program. Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students who have disabilities and who meet the eligibility criteria of the agency.~~

### **R 340.1734 Deviations from rules.**

Rule 34. (1) A deviation from these rules shall FOLLOW BOARD-APPROVED PROCEDURES AND be requested in writing from the state board of education or its designee by an intermediate SCHOOL DISTRICT, ~~or~~ local school district , OR PUBLIC SCHOOL ACADEMY that operates or contracts for special education programs and services. A copy of the request shall be filed concurrently with the intermediate school district in which affected ~~persons~~ STUDENTS with disabilities reside and all local constituent school districts in which the affected ~~persons~~ STUDENTS with disabilities reside. A copy of the request shall be filed concurrently with the parent advisory committee of the intermediate school district that requests the deviation and the parent advisory committee of any intermediate school district in which affected ~~persons~~ STUDENTS with disabilities reside.

(2) Within 7 days of receipt of the request, the intermediate school district shall review and inquire into the request and shall file, with the department, its position regarding the appropriateness of the request and its objections to, or endorsement of, the request, together with the rationale regarding its position.

(3) The state board of education or its designee shall initiate action within 30 calendar days of receipt of the request. The board or designee may grant the request in writing for a period not to extend beyond the end of the current school year and upon such terms and conditions as it shall specify only when, in its judgment, the best interests of ~~those~~ THE ~~persons~~ STUDENTS with disabilities affected by the deviation are served and good cause is shown.

(4) A deviation shall not be granted when the intent of the deviation is to exclude a ~~person~~ STUDENT with a disability from, or deny a ~~person~~ STUDENT with a disability participation in, a special education program or service that is required.

(5) A program deviation that is granted by the state board of education or its designee is public information. The affected intermediate school districts, ~~and local~~ constituent LOCAL SCHOOL districts, OR PUBLIC SCHOOL ACADEMIES shall inform their involved personnel of granted deviations in any manner they deem appropriate. At a minimum, the parent advisory committee shall be informed of the disposition of the request.

(6) A deviation shall not be requested for the purpose of avoiding or postponing corrections directed by the department ~~pursuant to~~ UNDER part 8 of these rules.

(7) If a final decision to deny a deviation request is made, THEN the school district that makes the request shall correct the condition that precipitated the request and shall



forward, to the department, office of special education AND EARLY INTERVENTION SERVICES, within 30 school days of the denial, its assurance that the matter is now in compliance with the respective rule.

(8) Nothing in this rule or any other provision of statute or regulation shall permit the state board of education to waive any of the requirements of Part B of the individuals with disabilities education act of 1990, AS AMENDED, 20 U.S.C. §1400 et seq.

**R 340.1736 ~~Paraprofessional personnel.~~ RESCIND**

~~—Rule 36. Paraprofessional personnel may be employed to assist special education professional personnel pursuant to the intermediate school district plan. Paraprofessional personnel include teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for the severely mentally impaired and the severely multiply impaired.~~

**R 340.1737 ~~Additional requirements by handicapping condition.~~ RESCIND**

~~—Rule 37. Each type of handicapped person, as defined in part 1 of these rules shall be provided programs and services pursuant to the intermediate district plans and the specific requirements in R 340.1738 to R 340.1749 and R 340.1754 to R 340.1758, in addition to the programs generally provided to all handicapped children as described in R 340.1733.~~

**R 340.1738 ~~Severely mentally impaired programs.~~ RESCIND.**

~~—Rule 38. Specific requirements for programs and services for the severely mentally impaired shall be as follows:~~

~~(a) — An instructional unit for the severely mentally impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 12 students. The maximum number of students may be extended to 15 if an additional instructional aide is assigned with the placement of the thirteenth student. At least 1 full time teacher and 1 full time aide shall be employed in every program for the severely mentally impaired.~~

~~(b) — Severely mentally impaired programs shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~

~~(c) — Persons employed in a severely mentally impaired program shall have the following responsibilities:~~

~~(i) — Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.~~

~~(ii) — Instructional aides shall work under the supervision of the teacher and assist in the student's daily training program.~~

~~(iii) — Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of severely mentally impaired students.~~

~~(d) — Curriculum for severely mentally impaired programs shall include all of the following:~~

~~(i) — Cognitive skills.~~

- ~~(ii) — Social skills.~~
- ~~(iii) Activities of daily living.~~
- ~~(iv) — Leisure education.~~
- ~~(v) — Language and communication skills.~~
- ~~(vi) — Prevocational and vocational activities.~~
- ~~(e) — Instructional and ancillary and other related services performed by the following persons shall be available as determined appropriate for the student's needs:~~
  - ~~(i) — A physical therapist.~~
  - ~~(ii) — An occupational therapist.~~
  - ~~(iii) — A teacher of the speech and language impaired.~~
  - ~~(iv) — A teacher consultant.~~
  - ~~(v) — A psychologist.~~
  - ~~(vi) — A school social worker.~~
  - ~~(f) — A registered nurse shall be reasonably available.~~

**R 340.1739 Trainable mentally impaired programs. RESCIND.**

~~— Rule 39. Specific requirements for programs and services for the trainable mentally impaired are as follows:~~

- ~~(a) — After August 31, 1975, all classroom programs for the trainable mentally impaired shall be provided in buildings constructed or renovated for use as school facilities.~~
- ~~(b) — A classroom unit for the trainable mentally impaired shall consist of either of the following:~~
  - ~~(i) — One teacher and 1 teacher aide for a maximum of 15 students.~~
  - ~~(ii) — One lead teacher with maximum of 3 instructional aides for a maximum of 30 students, with not more than 10 students for each aide.~~

**R 340.1740 Educable mentally impaired programs; number of students. RESCIND.**

~~— Rule 40. (1) Elementary programs for the educable mentally impaired shall serve not more than 15 different students. When an elementary program for the educable mentally impaired has 12 or more students in the room at one time, an aide shall be assigned to the program.~~

~~(2) — Secondary programs for the educable mentally impaired shall have not more than 15 different students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

**R 340.1741 Emotionally impaired programs; number of students. RESCIND.**

~~— Rule 41. Programs for the emotionally impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

**R 340.1742 Hearing impaired programs; effective dates. RESCIND.**

~~— Rule 42. (1) Specific requirements for programs and services for hearing impaired persons are as follows:~~

- ~~(a) — A special class with 1 teacher shall have an enrollment of not more than 7 students.~~

- ~~(b) — Group amplification devices deemed necessary for instruction by the individualized educational planning committee shall be provided. The public agency shall insure that the amplification devices worn by hearing impaired children in school are functioning properly.~~
- ~~(c) — Communication skills and language shall be emphasized as an integral part of the curriculum.~~
- ~~(2) — The Michigan school for the deaf shall be considered a part of the total continuum of services for hearing impaired persons. The following procedures are necessary for admission:~~
  - ~~(a) — A request for assignment to the Michigan school for the deaf shall be submitted by the intermediate school district superintendent or designee to the superintendent of the Michigan school for the deaf.~~
  - ~~(b) — Before application, the person shall have been identified by the referring school district as hearing impaired pursuant to R 340.1707.~~
  - ~~(3) — The resident district shall conduct the individualized educational planning committee meeting which initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized educational planning committee meeting. Subsequent individualized educational planning committee meetings shall be reconvened pursuant to R 340.1722c.~~

**R 340.1743 Visually impaired programs. RESCIND**

~~— Rule 43. (1) Specific requirements for programs and services for the visually impaired are as follows:~~

- ~~(a) — Class size shall be determined by the severity and multiplicity of the impairments of the visually impaired students. A special class with 1 teacher shall have an enrollment of not more than the equivalent of 8 full-time students, and the teacher shall be responsible for the educational programming for not more than 10 different students.~~
- ~~(b) — The curriculum shall include instruction in orientation and mobility, assistance in early development of comprehensive communication skills, personal adjustment education, and prevocational and vocational experience. The public agency shall insure that low vision aids, excluding prescription eye glasses, are available and functioning properly.~~
- ~~(c) — An agency operating special education programs and services for the visually impaired may also operate a program of transcription of education materials into braille pursuant to R 388.261 to R 388.265 of the Michigan Administrative Code.~~
- ~~(2) — The Michigan school for the blind shall be considered a part of the total continuum of services for visually impaired persons. The following procedures are necessary for admission:~~
  - ~~(a) — A request for assignment to the Michigan school for the blind shall be submitted by the intermediate school district superintendent, or his or her designee, to the superintendent of the Michigan school for the blind.~~
  - ~~(b) — Before application, the person shall have been identified by the referring school district as visually impaired pursuant to R 340.1708.~~
  - ~~(3) — The resident district shall conduct the individualized educational planning committee meeting which initiates an assignment into the Michigan school for the blind. Representatives of the intermediate school district of residence and the Michigan school for~~

~~the blind shall be invited to participate in the individualized educational planning committee meeting. Subsequent individualized educational planning committee meetings shall be reconvened pursuant to R 340.1722e.~~

**R 340.1744 Physically and otherwise health impaired programs. RESCIND.**

~~— Rule 44. (1) Programs for the physically and otherwise health impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

~~(2) Adaptive devices deemed necessary for instruction by the individualized educational planning committee shall be provided.~~

~~(3) Special classroom units serving physically and otherwise health impaired shall provide not less than 60 square feet of floor space per person.~~

~~(4) Health care aides may be employed to serve in a supportive capacity to the nurse, physical therapist, or occupational therapist.~~

~~(5) Paraprofessionals may be employed to serve the program and may be assigned by the teacher to assist any of the following persons in a supportive capacity:~~

~~(a) A nurse.~~

~~(b) An occupational therapist.~~

~~(c) A physical therapist.~~

~~(d) A speech and language teacher.~~

**R 340.1745 Speech and language impaired instructional services.**

Rule 45. ALL OF THE FOLLOWING PROVISIONS ARE ~~SSpecific~~ requirements for instructional services for the speech and language impaired; ~~are as follows:~~

(a) ~~The extent of instructional~~ SPEECH AND LANGUAGE services provided by ~~a teacher of the AN AUTHORIZED PROVIDER OF~~ speech and language impaired SERVICES ~~for persons determined to be eligible for special education in R 340.1703 to R 340.1715 shall be based on the handicapped~~ NEEDS OF A STUDENT WITH A DISABILITY ~~person's needs as determined by the individualized educational planning committee PROGRAM TEAM after reviewing a diagnostic report provided by a teacher of the AN AUTHORIZED PROVIDER OF~~ speech and language impaired SERVICES.

(b) The determination of caseload size for an individual ~~teacher of the AUTHORIZED PROVIDER OF~~ speech and language impaired SERVICES shall be made by the ~~teacher of the AUTHORIZED PROVIDER OF~~ speech and language impaired SERVICES in cooperation with the district director of special education, or his or her designee, and the building principal or principals of the school or schools in which the students are enrolled. Caseload size shall be based upon the severity and multiplicity of the ~~handicaps~~ DISABILITIES and the extent of the service defined in the collective individualized education programs of the students to be served, allowing time for all of the following:

(i) Diagnostics.

(ii) Report writing.

(iii) Consulting with parents and teachers.

(iv) Individualized educational ~~planning committee~~ PROGRAM TEAM meetings.

(v) Travel.

(c) Individual ~~teacher~~ caseloads OF AUTHORIZED PROVIDERS OF SPEECH AND LANGUAGE IMPAIRED SERVICES shall not exceed 60 different persons and shall be adjusted based on factors identified in subdivision (b) of this rule. Students being evaluated shall be counted as part of the caseload.

(D) AN AUTHORIZED PROVIDER OF SPEECH AND LANGUAGE IMPAIRED SERVICES SHALL BE EITHER A TEACHER OF SPEECH AND LANGUAGE IMPAIRED UNDER R 340.1781, R 340.1782, AND R 340.1796, OR A PERSON WITH A MASTER'S DEGREE, AS QUALIFIED UNDER R 340.1792.

**R 340.1746 ~~Homebound and hospitalized services.~~ RESCIND**

~~—Rule 46. Specific requirements for homebound and hospitalized services are as follows:~~

~~(a) — Homebound services shall be initiated within 15 school days after verification, by a licensed physician, of a medical handicap which requires the eligible special education student to be confined to the home. Such verification shall indicate the anticipated duration of the required confinement.~~

~~(b) — Hospital service shall be provided for eligible special education students who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.~~

~~(c) — A special education teacher employed for homebound or hospital services, or for a combination of these services, shall be assigned not more than 12 students at any one time.~~

~~(d) — Progress reports for each person shall be recorded pursuant to the intermediate school district plan.~~

~~(e) — Students receiving homebound or hospital services shall receive a minimum of 2 nonconsecutive hours of instruction per week. Related services personnel may supplement, but not substitute for, the teacher's instruction.~~

~~(f) — It is the responsibility of the district in which the hospital is located to make homebound and hospital services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering services or for contracting with the operating district and making payment for the services.~~

~~(g) — Homebound and hospitalized services shall not be substituted for special education programs AND RELATED SERVICES. Rather, the service provider shall endeavor, to the extent appropriate, to present curricular experiences which are being provided in the program where the student is currently enrolled.~~

**R 340.1747 ~~Specific learning disabilities programs; number of students.~~ RESCIND.**

~~—Rule 47. Programs for the learning disabled shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.~~

**R 340.1748 ~~Severely multiply impaired programs.~~ RESCIND.**

~~—Rule 48. Specific requirements for programs and services for the severely multiply impaired who are unable to function within other special education programs which deal with a single handicap are as follows:~~

- ~~(a) — An instructional unit for the severely multiply impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every severely multiply impaired program.~~
- ~~(b) — Severely multiply impaired programs shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~
- ~~(c) — The program for each student shall emphasize education relating to the multiple handicaps rather than education relating to a single handicap in isolation and shall encourage instructional or social experiences in programs for single disabilities for some portion of the instructional day. The individualized educational planning committee may recommend the portion of the day the student will spend in the experiences. An aide shall be available to meet the individual student's needs during this time, if necessary.~~
- ~~(d) — Persons employed in severely multiply impaired programs shall have the following responsibilities:~~
  - ~~(i) — Teachers shall be responsible for the instructional program, shall coordinate the activities of instructional aides and other supportive personnel, and shall maintain a systematic method of home-school liaison.~~
  - ~~(ii) — Instructional aides shall work under the supervision of the teachers.~~
  - ~~(iii) — Program assistants shall be utilized where necessary and shall have the responsibilities indicated in R 340.1738 for program assistants in severely mentally impaired programs; otherwise, instructional aides shall have these responsibilities.~~
- ~~(e) — Curriculum for severely multiply impaired programs shall include all of the following:~~
  - ~~(i) — Cognitive skills.~~
  - ~~(ii) — Social skills.~~
  - ~~(iii) — Activities of daily living.~~
  - ~~(iv) — Leisure education.~~
  - ~~(v) — Language and communication skills.~~
  - ~~(vi) — Prevocational and vocational activities.~~
- ~~(f) — Instructional and ancillary and other related services performed by the following persons shall be available as determined appropriate for the student's needs:~~
  - ~~(i) — A physical therapist.~~
  - ~~(ii) — An occupational therapist.~~
  - ~~(iii) — A teacher of the speech and language impaired.~~
  - ~~(iv) — A teacher consultant.~~
  - ~~(v) — A psychologist.~~
  - ~~(vi) — A school social worker.~~
  - ~~(g) — A registered nurse shall be reasonably available.~~

**R 340.1749 Teacher consultant; caseload; responsibilities. RESCIND.**

~~— Rule 49. (1) The teacher consultant for special education shall do 1 or more of the following:~~

~~(a) — Provide instructional services to students who are enrolled in special education programs. Instructional services are supportive of the special education teacher. A teacher consultant shall not grade, give credit for, or teach a regular education or a special education subject, class, or course.~~

~~(b) — Provide instructional services to a student whose handicap is such that the student may be educated effectively within a regular classroom if this service is provided to the student. Instructional services are supportive of the regular education teacher. The teacher consultant shall not grade, give credit for, or teach a regular education subject, class, or course.~~

~~(c) — Provide consultation to education personnel on behalf of handicapped persons on the consultant's caseload.~~

~~(d) — Work as a member of a multidisciplinary evaluation team to assist in the evaluation of the educational needs of persons suspected of being handicapped.~~

~~(2) — The teacher consultant shall carry an active caseload of not more than 25 handicapped students. All students served under this rule shall be counted as part of the caseload. In establishing the caseload, consideration shall be given to time for all of the following:~~

~~(a) — Instructional services.~~

~~(b) — Evaluation.~~

~~(c) — Consultation with special and regular education personnel.~~

~~(d) — Report writing.~~

~~(e) — Travel.~~

~~(3) — The teacher consultant shall not serve in supervisory or administrative roles.~~

**R 340.1749a Elementary level resource program. RESCIND.**

~~— Rule 49a. (1) A special education elementary level resource program may be provided by a special education teacher who has 2 years of teaching experience, 1 of which shall be in a special education classroom. This program is designed for eligible handicapped students who, through individualized educational planning committee determination, need 50% or less of their instructional school day in special education and who need 2 or less of the instructional content areas of language arts, mathematics, science, and social studies taught solely by the resource teacher.~~

~~(2) — The elementary resource teacher shall serve not more than 10 students at any one time and not more than 18 different students and shall do either or both of the following:~~

~~(a) — Provide direct instruction to students on the resource teacher's caseload and may assign grades or other evaluative measures for this instruction.~~

~~(b) — Provide support to the regular education classroom teachers to whom special education students on the resource teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.~~

~~(3) — The elementary resource teacher may provide supplemental instruction to students on his or her caseload.~~

~~(4) — The elementary resource teacher may evaluate regular education students within the same building who are suspected of being handicapped and, therefore, may serve on the initial multidisciplinary evaluation team. The resource teacher shall be responsible for the~~

evaluation of not more than 2 students at one time. Time shall be allocated to the resource teacher to carry out this responsibility.

(5) — If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

**R 340.1749b Secondary level resource program. RESCIND.**

— Rule 49b. (1) A special education secondary level resource program may be provided by a special education teacher who has 2 years of teaching experience, 1 of which shall be in a special education classroom. This program is designed for eligible handicapped students who, through individualized educational planning committee determination, need 3 periods or less of their instructional school day in special education and who need 2 or less of the instruction content areas of language arts, mathematics, science, and social studies taught solely by the resource teacher.

(2) — A secondary resource teacher shall serve not more than 10 students at any one time and have a caseload of not more than 20 different students and shall do either or both of the following:

(a) — Provide direct instruction for special education courses approved for graduation by the local educational agency. The teacher may assign grades or other evaluative measures for this instruction.

(b) — Provide support to the regular education classroom teachers to whom special education students on the resource room teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) — The secondary resource teacher may provide supplemental instruction to students on his or her caseload who are enrolled in regular education classes. The teacher shall not teach a class and offer tutorial assistance at the same time.

(4) — If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

(5) — Secondary schools with more than 1 resource program may departmentalize pursuant to R 340.1749c.

**R 340.1749c Departmentalization of secondary special education programs. RESCIND.**

— Rule 49c. (1) A secondary school with more than 1 special education teacher may departmentalize.

(2) — Each teacher shall teach only 1 local education agency approved special education course per period.

(3) — Each teacher may serve more than the students assigned to his or her caseload; however, the total number of students served cannot exceed the combined caseloads of the participating teachers.



~~(4) — Each teacher shall serve not more than an average of 10 students per class period per instructional day.~~

**R 340.1750 Director of special education.**

Rule 50. (1) Local SCHOOL districts OR PUBLIC SCHOOL ACADEMIES may employ, or contract for the services of; ~~a full or part time, but not~~ less than half-time; director of special education pursuant to the intermediate SCHOOL district plan.

(2) Each intermediate school district shall employ, or contract for the services of, a full-time director of special education. ~~For the intermediate school district to qualify for reimbursement, the intermediate school district director shall perform such full-time duties as the following:~~

- ~~(a) — The development, organization, and administration of special education programs and services.~~
- ~~(b) — The planning and conducting of inservice education programs.~~
- ~~(c) — The development and maintenance of continuous evaluation procedures for special education.~~
- ~~(d) — The liaison with school staff and the community.~~
- ~~(e) — The preparation of special education reports.~~
- ~~(f) — Other duties related to special education as assigned.~~

**R 340.1751 Supervisor of special education**

Rule 51. (1) Each school district may employ a supervisor of special education instructional programs. Such supervisor shall perform in an administrative, supervisory, ~~or consultative capacity for the instructional phases of specific areas of special education.~~ The person shall BE EMPLOYED ~~perform such full or part time, but not less than half-time, duties as pursuant to the intermediate school district plan.~~ Duties include all of the following:

- ~~(a) — Supervising and advising teachers providing instructional programs for the handicapped.~~
- ~~(b) — Assisting in the planning and conducting of inservice education programs.~~
- ~~(c) — Providing consultative services to the entire staff of the district and others concerning the instructional phases of specific areas of special education, including computer-aided instruction.~~
- ~~(d) — Other administrative duties relating to special education, as assigned.~~
- ~~(2) — While a supervisor's primary responsibility is the supervision of personnel providing special education, duties may also include the supervision of ancillary and other related service personnel.~~

**R 340.1753 Curriculum resource consultant. RESCIND.**

— Rule 53. A curriculum resource consultant specializes in all of the following:

- ~~(a) — The structure and planning of curriculum.~~
- ~~(b) — Instructional materials and media, including computer assisted instruction.~~
- ~~(c) — Inservice education.~~
- ~~(d) — Adaptive technology.~~
- ~~(e) — Needs assessment.~~

~~(f) — The acquisition, categorization, evaluation, or distribution of materials.~~

**R 340.1754 ~~Preprimary impaired classroom programs~~ EARLY CHILDHOOD SPECIAL EDUCATION PROGRAMS AND SERVICES.**

Rule 54. ALL OF THE FOLLOWING PROVISIONS ARE ~~SSpecific requirements for~~ EARLY CHILDHOOD SPECIAL EDUCATION ~~classroom~~ programs AND SERVICES for the ~~preprimary impaired~~ YOUNG CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY; ~~are as follows:~~

(a) ~~A special education approved, preprimary teacher shall be provided to children 3 through 5 years of age based upon the child's individual needs as specified by the individualized educational planning committee. Districts may include children through 2 years of age as specified by the individualized educational planning committee~~ AN EARLY CHILDHOOD SPECIAL EDUCATION PROGRAM WITH AN APPROVED EARLY CHILDHOOD SPECIAL EDUCATION TEACHER MAY BE PROVIDED TO YOUNG CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY AND WHO ARE 2 1/2 THROUGH 5 YEARS OF AGE BASED UPON THE CHILD'S INDIVIDUAL NEEDS AS SPECIFIED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM. EARLY CHILDHOOD SPECIAL EDUCATION PROGRAMS MAY INCLUDE CHILDREN THROUGH 2 1/2 YEARS OF AGE AS SPECIFIED BY THE INDIVIDUALIZED EDUCATION PROGRAM TEAM.

(b) ~~The program shall be available for a minimum of 360 clock hours and 144 days of instruction~~ IF A PRESCHOOL AGED CHILD WITH A DISABILITY OR DEVELOPMENTAL DELAY IS PLACED IN A NON-SPECIAL EDUCATION PROGRAM, THEN THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL CONSIDER THE NEED FOR CONSULTATION BY AN EARLY CHILDHOOD SPECIAL EDUCATION TEACHER.

(c) ~~The program shall have not more than 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 24 different students~~ EARLY CHILDHOOD SPECIAL EDUCATION TEACHERS SHALL HAVE RESPONSIBILITY FOR TEACHING AND EDUCATIONAL PROGRAMMING FOR NOT MORE THAT 12 DIFFERENT STUDENTS IN A SINGLE EARLY CHILDHOOD SPECIAL EDUCATION PROGRAM; AT LEAST 1 CLASSROOM AIDE SHALL BE PROVIDED.

(d) The EARLY CHILDHOOD SPECIAL EDUCATION programS shall have a parent participation and education component.

**R 340.1755 ~~Nonclassroom services to preprimary age children~~ EARLY CHILDHOOD SPECIAL EDUCATION HOME AND COMMUNITY PROGRAMS AND SERVICES.**

Rule 55. BOTH OF THE FOLLOWING PROVISIONS ARE ~~SSpecific requirements for~~ ~~nonclassroom services for preprimary age impaired~~ EARLY CHILDHOOD SPECIAL EDUCATION SERVICES FOR YOUNG children WITH DISABILITIES OR DEVELOPMENTAL DELAY IN FAMILY AND COMMUNITY SETTINGS; ~~are as follows:~~

(a) Services shall be provided by a ~~N special education approved, preprimary~~ EARLY CHILDHOOD SPECIAL EDUCATION teacher or approved ~~ancillary and other~~ related

services staff to YOUNG children BIRTH through 2 years of age 5 based upon the child's individual needs as specified by the individualized educational planning committee PROGRAM OR THE COMBINED INDIVIDUALIZED EDUCATION/FAMILY SERVICE PLAN, AS APPROPRIATE. Districts may include children through 5 years of age as determined by the individualized educational planning committee. Approved ancillary and other related services staff shall work under the supervision of aN certified APPROVED EARLY CHILDHOOD SPECIAL EDUCATION teacher approved pursuant to R 340.1795.

(b) ~~Nonclassroom s~~Services shall be provided for a minimum of 2 1 hours per week, but not less than 72 clock hours within 180 school days AND MAY INCLUDE CONSULTATION AND PARENT EDUCATION. Services may be provided in a home or school setting APPROPRIATE EARLY CHILDHOOD, COMMUNITY, AND FAMILY SETTINGS.

(c) ~~A nonclassroom services unit for preprimary age children shall consist of 1 of the following:~~

(i) ~~One teacher or approved preprimary ancillary and other related services staff for a maximum of 15 children.~~

(ii) ~~One lead teacher or approved preprimary ancillary and other related services staff and 1 aide for a maximum of 22 children.~~

(iii) ~~One lead teacher or approved preprimary ancillary and other related services staff and 2 aides for a maximum of 30 children.~~

(d) ~~The program shall have a parent participation and education component.~~

**R 340.1756. Severely language impaired classroom programs. RESCIND.**

~~— Rule 56. (1) A public agency may establish classroom programs for severely language impaired persons. Specific requirements for these programs are as follows:~~

(a) ~~A severely language impaired classroom program conducted by a teacher of the speech and language impaired shall serve only the preprimary or elementary level severely language impaired.~~

(b) ~~The program shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 15 different students.~~

(2) ~~Speech and language impaired persons eligible for this program are those with a severe disability in the comprehension or expression of language as determined through the manifestation of all of the following characteristics which adversely affects educational performance:~~

(a) ~~Demonstration of functioning within or above normal intellectual potential as measured by instruments that do not rely exclusively on oral direction or oral expression.~~

(b) ~~Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which clearly show language functioning not appropriate for the person's mental age.~~

(c) ~~Oral language at less than the expected level based on the person's mental age in not less than 2 of the following areas:~~

(i) ~~Phonology.~~

(ii) ~~Morphology.~~

(iii) ~~Syntax.~~

(iv) ~~Semantics.~~

(v) ~~Pragmatics.~~

(3) ~~A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a teacher of the speech and language impaired and a psychologist.~~

(4) ~~The severely language impaired program shall not include persons whose language impairment is primarily the result of autism or mental, emotional, hearing, visual, physical, or other health impairments as defined in part 1 of these rules.~~

**R 340.1757 Other related educational services for youth STUDENTS placed in juvenile detention facilities.**

Rule 57. ALL OF THE FOLLOWING PROVISIONS ARE ~~SS~~specific requirements for educational services conducted for youth STUDENTS placed in juvenile detention facilities; ~~are as follows:~~

(a) Programs shall be initiated within 5 calendar days after admission. If a person STUDENT placed in a juvenile detention facility is suspected of ~~being handicapped~~ HAVING A DISABILITY, THEN the procedure outlined in part 2 of these rules shall be immediately followed.

(b) Notification of educational placement shall be sent to the superintendent of the district of residence within 5 school days after the date of entry of a person STUDENT into the educational program in a juvenile detention facility.

(c) Education reports for each person educated in a juvenile detention facility shall be sent by certified mail to the superintendent of the district of residence, with the consent of the parent, within 5 school days from the date of release from the facility.

(d) Special education reimbursed personnel may provide educational services for ~~nonhandicapped persons~~ STUDENTS WHO DO NOT HAVE DISABILITIES AND WHO ARE placed in the facility, if the programs comply with both of the following PROVISIONS:

(i) They are under the supervision of a teacher approved in the area of ~~the emotionally impaired~~ IMPAIRMENT.

(ii) They have not more than 10 students in a class at any one time.

**R 340.1758 Classroom programs for the autistic impaired. RESCIND.**

~~— Rule 58. (1) Specific requirements for programs for the autistic shall be provided using either of the following alternatives:~~

~~(a) Programs that consist of 1 classroom program for the autistic impaired shall not have more than 5 students and shall be served by a teacher of the autistic. However, programs that consist of more than 1 classroom may have more than 5 students in a classroom, if the average student to teacher and aide ratio does not exceed 5 students to 1 teacher and 1 aide. A classroom with 3 or more students shall have 1 aide.~~

~~(b) A special education program described in section 1.6(2) of the intermediate school district plan set forth in R 340.1832 and approved by the state board of education that assures the provision of educational programming for autistic students.~~

~~(2) Specific requirements for either program shall include, but not be limited to, all of the following:~~

~~(a) Language and communication development.~~

- ~~(b) — Personal adjustment training.~~
- ~~(c) — Prevocational education.~~

**PART 4.**  
**QUALIFICATIONS OF DIRECTORS AND SUPERVISORS**

**R 340.1771      Director of special education; education and experience requirements.**

Rule 71. (1) For full approval, a director of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
  - (b) Full approval in at least 1 area of special education.
  - (c) Three years of successful professional practice or administrative experience in special education, or combination thereof OF PRACTICE AND EXPERIENCE.
  - (d) Thirty semester or 45-term EQUIVALENT hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency as related to special education in ALL OF the following areas:
    - (i) Program development and evaluation.
    - (ii) Personnel staffing, supervision, and evaluation.
    - (iii) Interpersonal relationships, communications, persuasion, and morale.
    - (iv) Evaluation of inservice organization and management.
    - (v) Budgeting, financing, and reporting.
    - (vi) Parent relationships.
    - (vii) School plant planning.
    - (viii) Consultation.
    - (ix) Research and grant writing.
    - (x) Office management, including office automation.
    - (xi) School-related legal activities and due process hearing.
    - (xii) Computer-assisted management.
  - (e) One year of successful experience as a special education director in an approved special education program.
  - (f) ~~Recommendation~~ VERIFICATION from a college or university approved for the preparation of special education directors which attests that the person has acquired the knowledge and competencies in subdivision (d) of this subrule and has demonstrated leadership ability and general knowledge of issues and problems in all disability areas of special education.
- (2) A DIRECTOR OF SPECIAL EDUCATION PROGRAMS WHO HAS FULL APPROVAL STATUS SHALL MAINTAIN FULL APPROVAL STATUS INDEFINITELY.
- ~~(2)~~(3) For temporary approval, a director of special education shall possess all of the following minimum qualifications:
- (a) An earned master's degree or equivalent.
  - (b) Full approval in at least 1 area of special education.

(c) Three years of successful professional practice or administrative experience in education, or combination thereof OF PRACTICE AND EXPERIENCE.

(d) Twelve semester or ~~18-term~~ EQUIVALENT hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency related to special education in the areas designated in subrule (1)(d) of this rule.

(e) ~~Recommendation from a~~ THE college or university approved for the preparation of special education directors SHALL VERIFY ENROLLMENT IN THE DIRECTOR OF SPECIAL EDUCATION PREPARATION PROGRAM AND THE COMPLETION OF THE PRACTICUM SPECIFIED IN SUBDIVISION (D) OF THIS SUBRULE.

~~(3)~~(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or ~~9-term~~ EQUIVALENT hours of required credit toward full approval before the beginning of the next school year.

~~(4)~~(5) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a director to gain full approval.

**R 340.1772 Supervisor of special education; education and experience requirements.**

Rule 72. (1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful experience in special education.
- (d) Twelve semester or ~~18-term~~ EQUIVALENT hours of graduate credit in a college or university whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in ALL OF the following areas:

- (i) Systematic study of curriculum.
- (ii) Administrative and supervisory procedures.
- (iii) Evaluation methods and procedures.
- (iv) Communication skills techniques.
- (v) Inservice education.
- (vi) Computer-aided instruction.

(e) One year of successful experience as a supervisor of special education in an approved special education program.

(f) ~~Recommendation~~ VERIFICATION from a college or university approved for the preparation of special education supervisors relative to leadership, knowledge, and competency in the areas listed in subdivision (d) of this subrule.

(2) A SUPERVISOR OF SPECIAL EDUCATION PROGRAMS WHO HAS FULL APPROVAL STATUS SHALL MAINTAIN FULL APPROVAL STATUS INDEFINITELY.

~~(2)~~(3) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:

- (a) An earned master's degree or equivalent.

- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful experience in special education.
- (d) ~~Recommendation from a~~ THE college or university approved by the state board of education for preparation of special education supervisors SHALL VERIFY ENROLLMENT IN THE SUPERVISOR OF SPECIAL EDUCATION PROGRAM.
- ~~(3)~~(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or ~~9-term~~ EQUIVALENT hours of required credit toward full approval before the beginning of the next school year.
- ~~(4)~~(5) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a supervisor to gain full approval.

**R 340.1773 ~~Presently employed director or supervisor. RESCIND~~**

~~—Rule 73. A director or supervisor of special education programs with full approval status on the date this rule becomes effective shall maintain full approval.~~

**R 340.1774 OUT-OF-STATE APPLICANTS FOR SUPERVISOR OR DIRECTOR TEMPORARY APPROVAL**

Rule 74. AN APPLICANT FOR TEMPORARY APPROVAL AS A SUPERVISOR OR DIRECTOR OF SPECIAL EDUCATION WHO HAS BEEN EDUCATED IN ANOTHER STATE SHALL PRESENT EVIDENCE OF FULFILLING ALL OF THE REQUIREMENTS ESTABLISHED FOR APPLICANTS WHO HAVE BEEN EDUCATED IN THE APPROVED MICHIGAN COLLEGES AND UNIVERSITIES. THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR THE TEMPORARY APPROVAL OF OUT-OF-STATE APPLICANTS AS SUPERVISORS OR DIRECTORS OF SPECIAL EDUCATION.

**PART 5.**

**QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL**

**R 340.1781 ~~Teachers of the handicapped~~ STUDENTS WITH DISABILITIES; approval generally ENDORSEMENT REQUIREMENTS.**

Rule 81. (1) ~~Beginning September 1, 1990, a~~ A teacher seeking AN ENDORSEMENT OR full approval by the state board of education or its designee shall meet ALL OF the following general skill requirements, in conjunction with those of R 340.1782 to R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799d, before being employed by an intermediate school district, ~~constituent~~ LOCAL SCHOOL district, PUBLIC SCHOOL ACADEMY, or other agency operating special education programs and services:

- (a) Theoretical foundations as follows:
  - (i) Understanding of human growth and development, which shall include all of the following:
    - (A) Typical and atypical development.
    - (B) Stages from conception to death.
    - (C) Affective, language, cognitive, and sensorimotor areas.

- (D) Factors influencing development, including physiological, social, physical environment, and psychological.
- (ii) Understanding of learning and teaching theories.
- (iii) Knowledge of construction, interpretation, application, and limitation of standardized and nonstandardized assessment procedures.
- (iv) Knowledge of ~~handicapping conditions~~ DISABILITIES and their educational implications.
- (b) Curriculum and instruction as follows:
  - (i) Understanding of curriculum design and instructional strategies.
  - (ii) Understanding of, and ability to adapt to, ~~regular~~ GENERAL and special curriculum and instructional strategies to meet individual learning styles.
- (c) Special education instructional systems as follows:
  - (i) Knowledge of program delivery systems, including all levels of service.
  - (ii) Understanding of individual and group management structures.
  - (iii) Understanding of effective use of school and outside resources in creating a positive learning environment.
  - (iv) Understanding a variety of systems for reporting and evaluating the effectiveness of an individual student's program.
  - (v) Understanding of the child study/team planning process.
  - (vi) Ability to translate comprehensive assessment data reflecting the student's current level of functioning into an individualized educational ~~plan~~ PROGRAM.
  - (vii) Understanding of how adaptive technology may be used to enhance the education of ~~handicapped~~ students WITH DISABILITIES.
- (d) Communication/consultation as follows:
  - (i) Knowledge of institutional and administrative factors ~~which~~ THAT facilitate or impede delivery of services.
  - (ii) Ability to effectively communicate the needs and rights of ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
  - (iii) Ability to use interpersonal skills when working with parents, professionals, agencies, students, and other persons or groups.
  - (iv) Understanding the roles and organizational structures of ~~regular~~ GENERAL and special education and the part they play in providing total service for the student.
  - (v) Ability to serve in a consultative capacity with individuals and groups, including parents and students.
  - (vi) Ability to supervise and work with teacher aides, volunteers, and paraprofessionals.
- (e) Organizational, historical, and legal factors as follows:
  - (i) Knowledge of state and federal laws, rules, and regulations.
  - (ii) Understanding of due process and data privacy requirements.
  - (iii) Knowledge of historical and philosophical background of the education of ~~handicapped persons~~ STUDENTS WITH DISABILITIES and knowledge of attitudes toward ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
  - (iv) Understanding of how to identify and access resources relevant to ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
- (f) Abilities basic to all special education preparation as follows:



- (i) Ability to observe, analyze, and describe the instructional strategies being applied in an educational situation.
- (ii) Ability to function as a member of a team in designing appropriate educational programs for ~~handicapped~~ students WITH DISABILITIES.
- (iii) Ability to apply team-designed strategies in an educational setting.
- (iv) Ability to design and apply instructional strategies in an educational setting, including time management techniques.
- (v) Ability to identify and use nonschool resources relevant to ~~handicapped persons~~ STUDENTS WITH DISABILITIES.
- (vi) Ability to assess results of instruction.
- (vii) Understanding of personal adjustment, prevocational and vocational needs, and opportunity for ~~the handicapped~~ STUDENTS WITH DISABILITIES.
- (viii) Ability to understand basic behavioral management concepts and demonstrate ability to develop, implement, and incorporate appropriate behavioral management techniques.
- (ix) Understanding of preadolescent behavior.
- (x) Understanding of adolescent behavior.
- (2) Students completing special education teacher preparation training programs before September 1, 1990, shall be ENDORSED OR fully approved.

**R 340.1782      ~~Fully approved~~ ENDORSED teachers of the ~~handicapped~~ STUDENTS WITH DISABILITIES; additional requirements.**

Rule 82. ~~A fully approved~~ AN ENDORSED teacher of ~~the disabled~~ STUDENTS WITH DISABILITIES, in addition to meeting the specific requirements set forth in ~~R 340.1785 to R 340.1791~~ R 340.1786 TO R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799eC, shall comply with all of the following requirements:

- (a) Possess a valid Michigan teacher's certificate.
- (b) Possess a baccalaureate degree with a major in a specific special education area or have earned credit in course work equivalent to that required for a major.
- (c) Possess an endorsement in special education that is valid in grades kindergarten through 12. Elementary or secondary endorsements in special education, earned ~~before or~~ after September 1, 1990, shall be valid in grades kindergarten through 12.
- (d) Have completed directed student teaching of not less than 8 weeks' duration in the specific area of impairment. Not less than a 180-hour practicum in the specific area of impairment is required for each additional endorsement. ~~Teachers who receive their approval pursuant to this rule after September 1, 1990, shall have completed directed student teaching of not less than 8 weeks' duration or an equivalent educational experience before being assigned to a classroom program for severely mentally impaired or the severely multiply impaired.~~
- (e) Be recommended for a certificate or endorsement, or both, ~~constituting full approval~~ in a specific special education area by an institution of higher education signifying verification of completion of a teacher education program for the specific special education area, as approved by the state board of education. The recommendation shall verify that the teacher possesses all of the following in addition to having completed course work that includes the general skill requirements listed in R 340.1781:
  - (i) Personal maturity.

- (ii) Emotional stability.
- (iii) Ability to teach.
- (iv) Other leadership capacities.
- (v) Apparent potential for growth in creative teaching.
- ~~(f) — Approved teacher education programs of each teacher training institution shall be reviewed at least once every 5 years by the department.~~
- ~~(g)~~(F) On the effective date of these rules, persons approved as special education teachers pursuant to this rule AND teacher consultants pursuant to R 340.1790, curriculum resource consultants pursuant to R 340.1791, teachers of preprimary-aged students pursuant to R 340.1795, and work study coordinators pursuant to R 340.1792 shall maintain and continue to have their full approval status.

**R 340.1783 Temporarily approved teachers of the handicapped STUDENTS WITH DISABILITIES.**

Rule 83. ~~(4)~~ UNDER PROCEDURES ESTABLISHED BY THE DEPARTMENT, ~~the~~ department may grant temporary approval as a teacher of ~~the handicapped~~ STUDENTS WITH DISABILITIES to persons who; HOLD A VALID MICHIGAN TEACHING CERTIFICATE. THE EMPLOYING SUPERINTENDENT SHALL CERTIFY THAT THE DISTRICT CONDUCTED A SEARCH FOR FULLY QUALIFIED PERSONNEL AND THAT NO CERTIFIED TEACHER WHO HOLDS FULL APPROVAL OR ENDORSEMENT FOR THE POSITION WAS AVAILABLE AT THE TIME OF THE ASSIGNMENT, ~~at a minimum, have completed 1/2 of the course requirements for a major in a specific impairment area.~~ Continuation of temporary approval shall be dependent upon the satisfactory completion of not less than 6 semester ~~or 9 term hours~~, or equivalent HOURS, of required credit toward full approval ~~before the beginning~~ BETWEEN AUGUST 31 OF THE CURRENT SCHOOL YEAR AND SEPTEMBER 1 of the next school year that the teacher is employed ~~in a special education area.~~ THE SCHOOL DISTRICT IS NOT REQUIRED TO CONDUCT A SEARCH FOR A FULLY QUALIFIED TEACHER IN SUCCESSIVE SCHOOL YEARS IF THE CANDIDATE MEETS THESE REQUIREMENTS. THE DISTRICT IS NOT REQUIRED TO REMOVE A TEACHER UNDER TEMPORARY OR CONTINUING APPROVAL WHEN A FULLY APPROVED OR ENDORSED TEACHER BECOMES AVAILABLE.

~~(2) — Special education teachers who would otherwise be laid off as a result of the application of R 340.1733(q) shall, if eligible, be granted temporary approval pursuant to this rule. Such teachers, if not eligible for temporary approval, shall be granted emergency approval on such terms and conditions as established by the state board, which may include the completion of continuing education units or experience. The availability of a fully approved teacher for the position shall not be a basis to deny, revoke, or fail to renew the teacher's temporary or emergency approval if the teacher remains in the special education program. This subrule shall not apply to teachers certified after December 30, 1990.~~

**R 340.1783a EARLY CHILDHOOD SPECIAL EDUCATION TEACHER, FULL YEAR PERMIT.**

RULE 83a. (1) THE DEPARTMENT MAY ISSUE A PERMIT WHEN A PROPERLY CERTIFICATED TEACHER, UNDER R 340.1795, IS UNAVAILABLE FOR A

REGULAR TEACHING ASSIGNMENT FOR CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY, AS DEFINED IN R 340.1711.

(2) AN APPLICATION FOR A PERMIT SHALL CONTAIN EVIDENCE THAT THE CANDIDATE HAS COMPLETED 120 SEMESTER OR EQUIVALENT HOURS OF SATISFACTORY COLLEGE CREDIT, INCLUDING 15 SEMESTER OR EQUIVALENT HOURS OF APPROPRIATE PROFESSIONAL EDUCATION CREDIT.

(3) THE PERMIT IS EFFECTIVE THROUGH JUNE 30 OF THE SCHOOL YEAR FOR WHICH THE PERMIT IS ISSUED.

(4) THE PERMIT WILL BE RENEWED WHEN EVIDENCE IS PRESENTED THAT A PROPERLY CERTIFICATED TEACHER IS UNAVAILABLE FOR A REGULAR TEACHING ASSIGNMENT.

**R 340.1784 ~~Special education intern teachers; approval.~~ RESCIND**

—Rule 84. ~~The department may grant temporary approval to teachers who are currently enrolled in a university intern program approved by the state board of education with special emphasis on an internship experience, which is under the provisions of a university teacher preparation program approved by the state board of education. Special education teachers with full approval and with not less than 3 years of experience in teaching handicapped persons shall be employed to consult with intern teachers at least the equivalent of 1 full school day each week.~~

**R 340.1785 ~~Special education areas to which approvals apply.~~ RESCIND**

—Rule 85. ~~R 340.1781 through R 340.1784 apply to teachers in the following specific education areas:~~

- ~~(a) — Autistic impaired.~~
- ~~(b) — Mentally impaired.~~
- ~~(c) — Emotionally impaired.~~
- ~~(d) — Learning disabled.~~
- ~~(e) — Hearing impaired.~~
- ~~(f) — Visually impaired.~~
- ~~(g) — Physically and otherwise health impaired, inclusive of homebound and hospitalized.~~
- ~~(h) — Preprimary impaired.~~
- ~~(i) — Speech and language impaired.~~

**R 340.1786 ~~Teachers of the mentally impaired~~ STUDENTS WITH MENTAL IMPAIRMENT; special requirements.**

Rule 86. (1) The teacher education program for teachers of ~~the mentally impaired~~ STUDENTS WITH MENTAL IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours. ~~In addition to the requirements of R 340.1781, t~~The teacher education program for teachers of students with mental impairments shall include all of the following:

- (a) A minimum of 12 semester OR EQUIVALENT hours of special skills and knowledge necessary for working with STUDENTS WITH ~~mentally impaired students~~ IMPAIRMENT, including all of the following:
  - (i) The nature of mental deficiency.

- (ii) Differential curriculum development and teaching techniques.
- (iii) Basic components of language development.
- (iv) The basic sensory-neural system and its relationship to learning and development.
- (v) Classroom management techniques.
- (b) A minimum addition of 10 semester OR EQUIVALENT hours in the development of competency in the following areas:
  - (i) Ability to observe and assess students, including all of the following:
    - (A) The nature of mental deficiency.
    - (B) Differential curriculum.
    - (C) Development and teaching techniques.
    - (D) Basic components of language development.
    - (E) The basic sensory-neural system and its relationship to learning and development.
    - (F) Classroom management techniques.
  - (ii) Ability to provide instruction and guidance to ~~STUDENTS WITH mentally-impaired students~~ IMPAIRMENT in all of the following areas:
    - (A) Self-help skills.
    - (B) Prevocational and vocational skill training.
    - (C) Recreation and leisure activities.
  - (iii) Ability to understand physical, sensory, and health-related problems and their impact on learning and development, including the understanding and appropriate use of medical information.
  - (iv) Ability to guide and counsel ~~STUDENTS WITH mentally-impaired students~~ IMPAIRMENT regarding all of the following:
    - (A) Human sexuality.
    - (B) Home, family, and community living.
    - (C) Use of local, state, and national resources.
  - (v) Ability to understand and utilize basic behavioral management concepts and techniques to meet the unique needs of the ~~STUDENT WITH mentally-impaired individual~~ IMPAIRMENT.
  - (vi) Ability to organize and manage an educational environment and schedule for a group of ~~STUDENTS WITH mentally-impaired students~~ IMPAIRMENT, including the understanding of the functions and role of the teacher as educational team leader and the role and function of related services personnel and aides.
  - (vii) Ability to instruct and reinforce a program of communication skills and techniques, both verbal and nonverbal, as deemed appropriate for the student.
  - (viii) Ability to utilize community resources and a variety of community settings and activities in the planning and implementation of an educational program for A ~~STUDENT WITH mentally-impaired students~~ IMPAIRMENT.
- ~~(c) Directed student teaching with mentally impaired students pursuant to R 340.1782(c).~~
- ~~(2) A teacher assigned as a lead teacher of the trainable mentally impaired shall comply with all of the following requirements:~~
  - ~~(a) Meet certification and full approval requirements for teaching the mentally impaired, as required in R 340.1782.~~

- ~~(b) Have completed 2 years of successful teaching experience with the trainable mentally impaired.~~
- ~~(c) Be recommended by an administrator who has supervised the teachers professional activities with trainable mentally impaired persons for at least 1 year.~~
- ~~(d) Have demonstrated ability to work cooperatively and creatively with other professional and nonprofessional staff members.~~

**R 340.1787 Teachers of the STUDENTS WITH emotionally-impaired IMPAIRMENT; special requirements.**

Rule 87. The teacher education program for teachers of the STUDENTS WITH emotionally-impaired IMPAIRMENT shall include 30 semester OR EQUIVALENT hours in ALL OF the following areas:

- (a) Four to 6 semester OR EQUIVALENT hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent psychology, learning theory and psychological information, both individual and group.
- (b) Four to 6 semester OR EQUIVALENT hours of environmental information, including sociological, cultural, economic information; special services and guidance programs in the school and community; organization of the school; characteristics of groups; and social organization and structure.
- (c) Six to 10 semester OR EQUIVALENT hours of educational and special methods, including education of ~~children~~ STUDENTS with special problems, theory and methods of teaching socially-handicapped SKILLS and STUDENTS WITH emotionally-impaired ~~persons~~ IMPAIRMENT, reading methods, instructional materials, and creative and other activities especially adapted to the education of ~~persons~~ STUDENTS with psychological and physiological learning difficulties.
- (d) Six to 12 semester OR EQUIVALENT hours of special skills and techniques in ALL OF THE FOLLOWING AREAS:
  - (i) ~~U~~nderstanding personality deviation;.
  - (ii) ~~I~~ncluding abnormal psychology;.
  - (iii) ~~T~~heory of maladjustment;.
  - (iv) ~~C~~ounseling and interview techniques;.
  - (v) ~~I~~nterpretation of psychological data;.
  - (vi) ~~a~~nd ~~W~~ork in parent counseling.
- (e) A minimum of 4 semester OR EQUIVALENT hours of credit in directed teaching with STUDENTS WITH emotionally-impaired ~~persons~~ IMPAIRMENT in addition to the 30 semester OR EQUIVALENT hours required for a major.
- (f) Six to 10 semester OR EQUIVALENT hours of application and experience, including supervised observation, with the STUDENTS WITH emotionally-impaired IMPAIRMENT, ~~a practicum in a psychiatric setting~~; a seminar in interdisciplinary approach, group dynamics, and interpretation of psychiatric techniques.
- (g) Two to 4 semester OR EQUIVALENT hours in evaluation and research methods.

**R 340.1788 Teachers of STUDENTS WITH learning disabled DISABILITIES; special requirements.**

Rule 88. The teacher education program for teachers of STUDENTS WITH the learning disabled DISABILITIES shall include a minimum of ~~28~~ 30 semester OR EQUIVALENT hours relating to the following areas:

- (a) Four semester OR EQUIVALENT hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent or child psychology, learning theory and psychological information.
- (b) Six semester OR EQUIVALENT hours of special skills and techniques in understanding learning problems, including development of language as it relates to reasoning, thinking, speaking, reading, writing, and spelling; remediation techniques for auditory and visual discrimination problems; development of perceptual skills; and understanding the dynamics of student-teacher relationships, environment, and program planning.
- (c) Six semester OR EQUIVALENT hours in the development of competence in the following areas:
  - (i) Ability to carry out suitable procedures for assessment of the student's listening, thinking, talking, reading, spelling, writing, arithmetic, or other skill deficiencies.
  - (ii) Ability to specify in behavioral terms instructional objectives ~~which~~ THAT are appropriate to the skill needs and entry level characteristics of the individual student.
  - (iii) Ability to select systems of instruction and learning conditions ~~which~~ THAT are likely to be most effective for ameliorating the learning disabilities presented by each student.
  - (iv) Ability to set up and maintain conditions and procedures of instruction suitable to the learning goals set for the individual student.
  - (v) Ability to assess instructional outcomes in terms of the student's behavior change and use this data in formulation of an ongoing instructional plan adjusted to changed student conditions.
  - (vi) Ability to use appropriate techniques with the student to help develop the self-management skills required for constructive social participation and independent learning.
  - (vii) Ability to function as a member of interdisciplinary teams and maintain effective liaison with parents and others working with the student.
- ~~(d) Four semester hours practicum with learning disabled students.~~

**R 340.1790      ~~Teacher consultants for handicapped persons; approval.~~**  
**RESCIND.**

~~— Rule 90. In addition to meeting all of the requirements of R 340.1782, a teacher consultant shall meet all of the following requirements for full approval by the state board of education or its designee:~~

- ~~(a) Possess a master's degree in education or a field of study related to special education.~~
- ~~(b) Recommendation to the department, by letter, by the employing superintendent, or his or her designee, for approval as a teacher consultant. In requesting approval, the superintendent or designee shall provide satisfactory evidence that the teacher has demonstrated knowledge and competence in all of the following areas:~~
  - ~~(i) Interpersonal relations.~~
  - ~~(ii) Consultation skills.~~
  - ~~(iii) Specialized instructional methods.~~

- ~~(iv) — Effective time and classroom management techniques.~~
- ~~(v) — Educational diagnostic techniques.~~
- ~~(vi) — Problem solving/conflict resolution techniques.~~
- ~~(vii) Team planning and implementation processes.~~
- ~~(viii) Organizational theory and group dynamics.~~
- ~~(c) — Show evidence of a minimum of 3 years of satisfactory teaching experience, not less than 2 years of which shall be in teaching handicapped persons in a special education classroom.~~

**R 340.1791 Curriculum resource consultant; approval. RESCIND**

~~— Rule 91. A curriculum resource consultant employed in a special education program, in addition to meeting the specific requirements set forth in R 340.1782 and R 340.1790, shall, for approval by the state board of education or its designee, have completed 12 semester hours of credit, or a department determined equivalent, in an educational program which insures competency in all of the following areas:~~

- ~~(a) — Curriculum development and planning.~~
- ~~(b) — Instructional materials and media, including computer-assisted technology.~~
- ~~(c) — Inservice education, including needs assessment techniques.~~
- ~~(d) — Acquisition, categorization, evaluation, and distribution of materials.~~
- ~~(e) — Adaptive technology.~~

**R 340.1792 Licensure, certification, or approval of supportive professional personnel.**

~~Rule 92. Supportive pProfessional personnel employed or contracted with to provide supportive RELATED services to handicapped persons STUDENTS WITH DISABILITIES shall be licensed, certificated, or registered by a governmental agency as a condition of practicing their profession, certified by OR a legally recognized professional board or association as an indication of adequate preparation and training, or BE recommended by a college or university offering an appropriate training program as approved by the state board of education.~~

**R 340.1793 Paraprofessional personnel; qualifications.**

~~Rule 93. (1) Paraprofessional personnel employed in special education programs shall be qualified pursuant to requirements established by their respective intermediate school district plan. Paraprofessional personnel include, but are not limited to, teacher aides, health care aides, bilingual aides, AND instructional aides, and program assistants in programs for severely mentally and severely multiply impaired.~~

- ~~(2) — An interpreter for the deaf shall be any of the following:~~
- ~~(a) — A certified interpreter as defined in Act No. 204 of the Public Acts of 1982, being §393.501 et seq. of the Michigan Compiled Laws, and known as the deaf persons' interpreters act.~~
- ~~(b) — A qualified interpreter as defined in Act No. 204 of the Public Acts of 1982, being §393.501 et seq. of the Michigan Compiled Laws, and known as the deaf persons' interpreters act who has been approved at quality assurance level II or III.~~

~~(c) — A high school graduate, or equivalent, with advanced training in a community college, or degree-granting institution, whose training program has been approved by the department.~~

**R 340.1793A INTERPRETERS FOR THE DEAF.**

RULE 93A. AN INTERPRETER FOR THE DEAF SHALL BE ANY OF THE FOLLOWING:

- (A) A CERTIFIED INTERPRETER AS DEFINED IN 1982 PA 204, MCL 393.501 ET SEQ., AND KNOWN AS THE DEAF PERSONS' INTERPRETERS ACT.
- (B) A QUALIFIED INTERPRETER AS DEFINED IN 1982 PA 204, MCL 393.501 ET SEQ., AND KNOWN AS THE DEAF PERSONS' INTERPRETERS ACT, WHO HAS BEEN APPROVED AT QUALITY ASSURANCE LEVEL II OR III.
- (C) A HIGH SCHOOL GRADUATE, OR EQUIVALENT, WITH ADVANCED TRAINING IN A COMMUNITY COLLEGE, AGENCY, OR DEGREE-GRANTING INSTITUTION. THE TRAINING PROGRAMS MUST BE APPROVED BY THE DEPARTMENT.

**R 340.1794 ~~Instructional aides; qualifications.~~ RESCIND.**

~~—Rule 94. An instructional aide employed in programs for the severely multiply impaired, the severely mentally impaired and the trainable mentally impaired shall meet either of the following qualifications:~~

- ~~(a) — Be a high school graduate, or equivalent, with a minimum of 2 years of successful experience as an aide in a day care training program or a trainable classroom, or equivalent experience, and be recommended by an administrator who has supervised the work of the aide for at least 1 year.~~
- ~~(b) — Be a high school graduate, or equivalent, with advance training in a community college or degree-granting institution whose special education instructional aide training program has been approved by the department.~~

**R 340.1795 ~~Teachers of the preprimary age impaired;~~ EARLY CHILDHOOD SPECIAL EDUCATION TEACHERS.; special requirements.**

~~Rule 95. (1) A fully approved teacher of preprimary age students, in addition to meeting the specific requirements set forth in R 340.1782, shall possess either of the following: AN EARLY CHILDHOOD SPECIAL EDUCATION TEACHER FOR YOUNG CHILDREN WITH DISABILITIES OR DEVELOPMENTAL DELAY, IN ADDITION TO MEETING THE SPECIFIC REQUIREMENTS SET FORTH IN R 340.1782, SHALL POSSESS EITHER OF THE FOLLOWING:~~

- ~~(a) — A major or minor in early childhood education or child growth and development, as recommended by an approved university.~~
- ~~(b)(A) The early childhood endorsement on the teaching certificate.~~
- ~~(B) A MAJOR OR MINOR IN EARLY CHILDHOOD EDUCATION OR CHILD GROWTH AND DEVELOPMENT AS RECOMMENDED BY AN APPROVED UNIVERSITY.~~
- ~~(2) ONLY CANDIDATES MEETING THE REQUIREMENTS UNDER SUBRULE (1) (B) OF THIS RULE ARE REQUIRED TO BE APPROVED BY THE DEPARTMENT.~~



~~(2)(3) Certified staff who have been assigned to a program for preprimary age children pursuant to R 340.1738 to R 340.1744, R 340.1747 and R 340.1748, R 340.1756, and R 340.1758 within 3 years prior to the time this rule became effective shall have full approval.~~  
AS OF THE EFFECTIVE DATE OF THESE RULES, A TEACHER WHO HAS RECEIVED FULL APPROVAL AS A TEACHER OF PREPRIMARY AGE IMPAIRED STUDENTS SHALL BE DEEMED TO HAVE FULL APPROVAL AS AN EARLY CHILDHOOD SPECIAL EDUCATION TEACHER, IF THE TEACHER POSSESSES A VALID MICHIGAN TEACHING CERTIFICATE.

**R 340.1796 Teachers of the STUDENTS WITH speech and language impaired IMPAIRMENT; special requirements.**

Rule 96. (1) A teacher of the STUDENTS WITH speech and language impaired IMPAIRMENT shall meet all of the following requirements:

- (a) An earned master's degree in speech and language pathology.
  - (b) A minimum of 60 semester OR EQUIVALENT hours of academic credit in normal aspects of human communication, development thereof, and clinical techniques for evaluation and management of speech and language disorders distributed as follows:
    - (i) A minimum of 12 semester OR EQUIVALENT hours in courses pertaining to normal development of speech, language, and hearing.
    - (ii) A minimum of 30 semester OR EQUIVALENT hours in courses on communication disorders and evaluation and management of speech, language, and hearing disorders. Of these 30 semester OR EQUIVALENT hours, 24 hours shall be in speech and language pathology and 6 shall be in audiology. Not more than 6 of the 30 semester OR EQUIVALENT hours may be earned for clinical practicum.
    - (iii) A minimum of 30 semester OR EQUIVALENT hours that are acceptable on a graduate level, of which 21 hours shall be within the group specified under paragraph (ii) of this subdivision.
  - (c) A minimum of 300 clock hours of supervised practicum experience with persons STUDENTS who present a variety of communication disorders, to be acquired in conjunction with academic training, 150 hours of which shall be obtained on the graduate level.
- (2) The state board of education or its designee shall approve as a teacher of the STUDENTS WITH speech and language impaired IMPAIRMENT a person WHO IS employed or approved as a teacher of the STUDENTS WITH speech and language impaired IMPAIRMENT before the effective date of these rules.
- ~~(3) A teacher of the speech and language impaired serving the severely language impaired in a classroom program, as defined in R 340.1756, shall be certified at the elementary level.~~

**R 340.1797 Teachers of physical education for handicapped individuals STUDENTS WITH DISABILITIES; approval SPECIAL REQUIREMENTS.**

Rule 97. A teacher of physical education for handicapped individuals STUDENTS WITH DISABILITIES shall possess a valid Michigan teaching certificate with approval AN ENDORSEMENT in physical education, special education, or both, and shall complete all the following:

- (a) A minimum of 9 semester OR EQUIVALENT hours ~~or 12 term hours~~ in special education courses leading to the acquisition of all of the following competencies:
  - (i) Knowledge of the causes of various ~~handicapping~~ DISABILITY conditions and the effects of those conditions on learning.
  - (ii) Ability to assess physical education skills of individuals exhibiting various ~~handicapping conditions~~ DISABILITIES.
  - (iii) Knowledge of special education teaching models ~~which~~ THAT employ assessment-prescriptive techniques.
  - (iv) Ability to use community and staff resources within the special education environment.
- (b) A minimum of 9 semester OR EQUIVALENT hours ~~or 12 term hours~~ in special physical education courses leading to the acquisition of all of the following competencies:
  - (i) Ability to write in behavioral terms and assess instructional objectives for physical education for the ~~handicapped~~ STUDENTS WITH DISABILITIES.
  - (ii) Knowledge of motor characteristics, behaviors, and development sequences associated with various ~~handicapping conditions~~ DISABILITIES in relationship to normal motor development.
  - (iii) Knowledge of anatomy, kinesiology, and neurology ~~which~~ THAT pertains to normal and abnormal motor control and sensory motor integration for teaching physical education to STUDENTS WITH severely ~~handicapped~~ DISABILITIES and STUDENTS WHO ARE nonambulatory students.
  - (iv) Ability to adapt teaching methods, materials, and techniques for physical and motor fitness, gymnasium use, fundamental motor skills, aquatic skills, dance, individual and group games, and lifetime sports skills for the needs of the ~~handicapped~~ STUDENTS WITH DISABILITIES.
  - (v) Ability to analyze, adapt, and implement physical education curriculum in providing appropriate programs for a variety of ~~handicapping conditions~~ DISABILITIES.
- (c) A directed field experience in teaching physical education IN A SCHOOL SETTING with ~~handicapped persons~~ STUDENTS WITH DISABILITIES ~~in a school setting~~.
- (D) AS OF THE EFFECTIVE DATE OF THESE RULES, A TEACHER WHO HAS RECEIVED FULL APPROVAL AS A TEACHER OF PHYSICAL EDUCATION FOR HANDICAPPED INDIVIDUALS SHALL BE DEEMED TO HAVE FULL APPROVAL AS A TEACHER OF PHYSICAL EDUCATION FOR STUDENTS WITH DISABILITIES, IF THE TEACHER POSSESSES A VALID MICHIGAN TEACHING CERTIFICATE.

**R 340.1798 Teachers of physical education for ~~handicapped individuals~~ STUDENTS WITH DISABILITIES; role.**

Rule 98. A special education-reimbursed teacher of physical education shall provide instruction in physical education to ~~special education~~ students WITH DISABILITIES whose disabilityIES precludes integration into regular physical education classes. Teachers of physical education for ~~handicapped individuals~~ STUDENTS WITH DISABILITIES may provide supportive service to regular physical education teachers who have ~~handicapped~~ students WITH DISABILITIES integrated into their programs and to ~~special education classroom~~ teachers OF STUDENTS WITH DISABILITIES who are delivering physical education services.

**R 340.1799 Teachers of the autistic STUDENTS WITH AUTISM; special requirements.**

Rule 99. ~~(1) Full approval as a teacher of the autistic~~ THE TEACHER EDUCATION PROGRAM FOR TEACHERS OF STUDENTS WITH AUTISM shall ~~be granted to a person who meets both of the following requirements~~ INCLUDE A MINIMUM OF 30 SEMESTER OR EQUIVALENT HOURS RELATING TO ALL OF THE FOLLOWING AREAS:

~~(a) Successfully completes all requirements for temporary approval as a teacher of the autistic.~~

~~(b) Possesses 1 year of successful experience in an approved program for autistic persons.~~

~~(2) Temporary approval as a teacher of the autistic shall be granted to a person who meets both of the following requirements:~~

~~(a) Has full approval in 1 other area of special education as specified in R 340.1782.~~

~~(b) Is recommended by a college or university approved by the state board of education as having demonstrated knowledge and competency in all of the following areas:~~

~~(A) (i) Syndrome of autism, including its etiology.~~

~~(B) (ii) Child development, with special emphasis on language, communication, and cognitive development.~~

~~(C) (iii) Behavioral management INTERVENTION techniques.~~

~~(D) (iv) Systematic curriculum development, with special emphasis on personal adjustment and prevocational education.~~

~~(E) (v) Home/school interactions.~~

~~(F) (vi) Family and community support services.~~

~~(vii) Four semester hour practicum, or equivalent, with autistic persons.~~

~~(3) A teacher currently employed in a program specifically designed for autistic students, as authorized in the intermediate school district plan, shall be granted full approval on the date this rule takes effect. Verification by the district's superintendent or the program supervisor of the autistic impaired program that the teacher has demonstrated knowledge and competency in the areas listed in subrule (2) of this rule shall be submitted to the department.~~

**R 340.1799a Teachers of STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health impaired IMPAIRMENT; special requirements.**

Rule 99a. The teacher education program for teachers of the STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health impaired IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours. ~~In addition to the requirements of R 340.1781, t~~The teacher education program for teachers of students with physically IMPAIRMENT and STUDENTS WITH otherwise health impairments shall include all of the following:

(a) A minimum of 12 semester OR EQUIVALENT hours of special skills and techniques for working with STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health impaired students IMPAIRMENT, including all of the following:

- (i) Medical aspects of temporary and permanent physical disabilities of a wide variety.
- (ii) Impact of neurological impairments and mental ~~retardation~~ IMPAIRMENTS on learning.
- (iii) Equipment and techniques of physical management of STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health ~~impaired students~~ IMPAIRMENT.
- (iv) Methods and materials for training, observation, and assessment of STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health ~~impaired students~~ IMPAIRMENT, including techniques for nonvocal communication.
- (b) A minimum of 10 semester OR EQUIVALENT hours in the development of competence in ALL OF the following areas:
  - (i) Ability to work as a member of a multidisciplinary EVALUATION team which includes medical and paramedical personnel and to supervise paraprofessional personnel.
  - (ii) Ability to develop and implement an instructional plan for students, including those confined to home or a hospital.
  - (iii) Ability to explain the condition of the student and the condition's impact on learning and to serve as a resource person for STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health ~~impaired students~~ IMPAIRMENT within regular GENERAL and special education classes.
  - (iv) Ability to counsel students regarding all of the following:
    - (A) Human sexuality.
    - (B) Home, family, and community living.
    - (C) Career selection.
    - (D) The use of local, state, and national resources.
  - (v) Ability to develop, implement, and reinforce special instruction in all of the following life skill areas:
    - (A) Self-help skills.
    - (B) Recreation and leisure time activities.
    - (C) Community transportation and mobility.
    - ~~(D) Recruitment.~~
    - ~~(E)~~(D) Use of personal aids.
  - (vi) Ability to understand the role and function of related service personnel and to work in conjunction with them in the development and implementation of special instructional programs or techniques necessary to a FOR STUDENTS WITH physically IMPAIRMENT and STUDENTS WITH otherwise health ~~impaired individual~~ IMPAIRMENT.
  - (vii) Ability to observe and assess students with physical IMPAIRMENT and STUDENTS WITH other health impairments through the use of formal and informal tools and techniques.
  - (viii) Ability to work intensively and extensively with parents of students, both as a home instructor for infants and their parents and as a liaison between the educational agencies and the home.
  - ~~(c) Directed student teaching with physically and otherwise health impaired students pursuant to R 340.1782(c).~~

**R 340.1799b Teachers of the STUDENTS WITH visually impaired IMPAIRMENT; special requirements.**

Rule 99b. ~~In addition to the requirements listed in R 340.1781,~~ The teacher education program for teachers of the STUDENTS WITH visually impaired IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours relating to the following areas:

(a) Twelve semester OR EQUIVALENT hours of special skills and techniques for working with the STUDENTS WITH visually impaired IMPAIRMENT, including all of the following:

- (i) Beginning and advanced braille.
- (ii) Methods of teaching ~~the blind and partially sighted~~ STUDENTS WITH VISUAL IMPAIRMENT.
- (iii) Special equipment and its use for the STUDENTS WITH visually impaired IMPAIRMENT.

(b) Ten semester OR EQUIVALENT hours in the development of competence in ALL OF the following areas:

- (i) Ability to work as a member of a multidisciplinary EVALUATION team which includes medical and technical personnel.
- (ii) Ability to develop and implement a curriculum and an instructional program for a range of STUDENTS WITH visually impaired students IMPAIRMENT.
- (iii) Ability to implement and support a program of communication skills and techniques and to implement and support a program of orientation and mobility skills as deemed appropriate for the student.

(iv) Ability to explain the structure and function of the eye and the impact of vision impairment on learning and to serve as a resource person and consultant for STUDENTS WITH visually impaired students IMPAIRMENT in regular GENERAL and special education classes.

(v) Ability to instruct STUDENTS WITH visually impaired students IMPAIRMENT regarding all of the following:

- (A) Human sexuality.
- (B) Home, family, and community living.
- (C) Career selection.
- (D) The use of local, state, and national resources.

(vi) Ability to develop and implement special instruction in ALL OF the following life skill areas:

- (A) Self-help skills.
- (B) Recreation and leisure time activities.
- (C) Community transportation and mobility.
- ~~(D) Recruitment.~~

~~(E)~~(D) Use of personal aids.

(vii) Ability to work intensively and extensively with parents of STUDENTS WITH visually impaired students IMPAIRMENT, both as a home instructor for parents and as a liaison between the educational agencies and the home.

~~(c) Directed student teaching with visually impaired students pursuant to R 340.1782(c).~~

**R 340.1799c Teachers of STUDENTS WITH hearing ~~impaired~~ IMPAIRMENT; special requirements.**

Rule 99c. (1) The teacher education program for teachers of ~~the~~ STUDENTS WITH hearing ~~impaired~~ IMPAIRMENT shall include a minimum of 30 semester OR EQUIVALENT hours. ~~In addition to the requirements listed in R 340.1781, t~~ The teacher education program for teachers of the STUDENTS WITH hearing ~~impaired~~ IMPAIRMENT shall meet the council on education of the deaf standards or shall, at a minimum, include 30 semester OR EQUIVALENT hours relating to the following areas:

- (a) Language and linguistics.
  - (b) Audiology and speech science.
  - (c) Psychology.
  - (d) Education.
- (2) Students shall complete a program that is designed to develop the following competencies:
- (a) Knowledge of linguistics, theories of language development, and the various special methods used to assess and develop language competence.
  - (b) Ability to utilize an individual diagnostic profile of the student's expressive and receptive language skills.
  - (c) Ability to integrate language development with the teaching of English, mathematics, social studies, science, and other academics.
  - (d) Ability to use various and combined modes, manual and oral, in both expressive and receptive communication with STUDENTS WITH hearing ~~impaired~~—students IMPAIRMENT.
  - (e) Knowledge of the anatomy, physiology, and pathology of the organs of speech and hearing.
  - (f) Knowledge of audiological assessment information and its application to the individualized education program of a STUDENT WITH hearing ~~impaired~~—student IMPAIRMENT.
  - (g) Knowledge of personal and group amplification systems, including their basic maintenance.
  - (h) Ability to incorporate and teach appropriate procedure to maximize the use of speech, speech reading, and auditory skills.
  - (i) Ability to use systematic observational techniques for establishing baseline data, evaluating problem areas, and for documenting and assessing progress.
  - (j) Knowledge of the psychological and sociological impact of severe/profound hearing impairment, including information about the ~~adult-deaf~~ community/deaf culture OF ADULT PERSONS WHO ARE DEAF.
  - (k) Ability to identify and use local, state, and national resources in support of STUDENTS WITH hearing ~~impaired~~—students IMPAIRMENT, their parents, and their educational program.
  - (l) Ability to orient parents, ~~regular~~ GENERAL school staff, and administrators to the unique needs and learning styles of ~~the-hearing-impaired~~ students WITH HEARING IMPAIRMENT.
  - (m) Ability to assess communication, academic, and social/emotional development of STUDENTS WITH hearing ~~impaired~~—students IMPAIRMENT.

- (n) Ability to relate diagnostic information in functional terms to parents and support service specialists.
- (o) Ability to design and implement an educational program appropriate to the individual student's communication, academic, prevocational, and social needs.
- (p) Ability to modify and adapt procedures for teaching reading, math, and other academic subjects to STUDENTS WITH hearing impaired students IMPAIRMENT.
- (3) Before assignment to directed student teaching, each student shall spend a minimum of 60 clock hours in programs utilizing various communication modes, both manual and oral.
- ~~(4) Students shall complete directed student teaching with hearing impaired students pursuant to R 340.1782(e).~~
- (5) THE COUNCIL ON THE EDUCATION OF THE DEAF STANDARDS, AS CITED IN SUBRULE (1) OF THIS RULE, ARE AVAILABLE FROM THE COMMITTEE ON PROFESSIONAL PREPARATION AND CERTIFICATION, GALLAUDET UNIVERSITY, 800 FLORIDA AVENUE, N.E., WASHINGTON, D.C., 2002-3695, AND ALSO FROM THE DEPARTMENT AT NO COST FOR REPRODUCTION.

**R 340.1799d Work-study coordinators; approval. RESCIND**

~~—Rule 99d. The work-study coordinator shall meet all of the following requirements for full approval by the state board of education or its designee:~~

- ~~(a) Full approval as a teacher in 1 or more areas of special education.~~
- ~~(b) A minimum of 3 years of satisfactory teacher experience in special education, with at least 1 year of teaching in a special education classroom at the secondary level.~~
- ~~(c) Recommendation to the department by a university or employing superintendent that the teacher has the following competencies as documented by course work, inservice training, or work experience:~~
  - ~~(i) Knowledge of the effects of physical and mental impairment on the individual's learning and work potential.~~
  - ~~(ii) A broad range of occupational information, including the ability to use the dictionary of occupational titles to relate specific skills and abilities to job titles.~~
  - ~~(iii) Sufficient knowledge of the free enterprise system and business management to answer basic questions about the legal and economic impact of the work-study program.~~
  - ~~(iv) The ability to interpret wage and hour, child labor, workers' compensation, and school laws to students and employers.~~
  - ~~(v) The ability to do task analysis to identify prerequisite skills needed by the student before entry into the work station.~~
  - ~~(vi) Ability to analyze performance problems needed to help students who are not meeting employer expectations.~~
  - ~~(vii) Ability to write educational objectives in measurable terms for specific job tasks.~~
  - ~~(viii) Knowledge of the role and function of all of the following:~~
    - ~~(A) The county department of social service.~~
    - ~~(B) Michigan employment security commission.~~
    - ~~(C) Michigan rehabilitation services.~~
    - ~~(D) Other agencies that may provide supportive services to handicapped persons.~~

~~(ix) Knowledge of survey research techniques used to identify community employment needs.~~

~~(x) Knowledge of skills taught in vocational education programs and the ability to relate vocational competencies to an employer's personal needs.~~

**R 340.1799E "PSYCHOLOGIST"; DEFINED.**

RULE 99E. "PSYCHOLOGIST" MEANS AN APPROVED MICHIGAN SCHOOL PSYCHOLOGIST WHO IS CERTIFIED BY THE DEPARTMENT OR WHO IS A FULLY LICENSED PSYCHOLOGIST.

**R 340.1799F "SCHOOL SOCIAL WORKER"; DEFINED.**

RULE 1799F. "SCHOOL SOCIAL WORKER" MEANS A SCHOOL SOCIAL WORKER WHO IS APPROVED BY THE DEPARTMENT.

**PART 6.  
FINANCING**

**R 340.1801 Source of funds.**

Rule 101. Funds for operating and housing special education programs and services operated by intermediate SCHOOL DISTRICTS, ~~and~~ constituent LOCAL school districts, AND PUBLIC SCHOOL ACADEMIES shall be derived from federal appropriations; general and categorical appropriations in ~~Act No. 94 of the Public Acts of 1979, as amended, being § 1979 PA 94, MCL 388.1601 et seq. of the Michigan Compiled Laws,~~ and known as the state school aid act of 1979; local general and specific property taxes, gifts, grants, bequests; ~~and tuition payments~~ OR PAYMENTS from a school district sending ~~handicapped persons~~ STUDENTS WITH DISABILITIES to another school district.

**R 340.1802 Use of funds.**

Rule 102. Funds available to intermediate SCHOOL DISTRICTS, ~~and~~ constituent school districts, AND PUBLIC SCHOOL ACADEMIES as provided in R 340.1801; may be used for ANY OF THE FOLLOWING:

- (a) ~~T~~he employment of teachers and other personnel;
- (b) ~~T~~ransportation of ~~handicapped persons~~ STUDENTS WITH DISABILITIES;
- (c) ~~T~~he purchase and maintenance of equipment and supplies;
- (d) ~~T~~he lease, purchase, construction, renovation, or acquisition of vehicles, sites, buildings or portions thereof, and equipment as deemed necessary for staff, programs, and services operated pursuant to the intermediate SCHOOL district plans as approved by the state board of education and other provisions of law.

**R 340.1803 Building or purchasing facilities.**

Rule 103. When facilities are purchased, constructed, or renovated, with funds acquired through sections 1722 to 1729 of ~~Act No. 451 of the Public Acts of 1976, as amended, being §§ 1976 PA 451, MCL 380.1722 to 380.1729 of the Michigan Compiled Laws,~~ for constituent SCHOOL districts, funds shall be used for contractual purposes which provide that the constituent SCHOOL district OR PUBLIC SCHOOL ACADEMY shall make that facility



available for special education programs and services for a period of 25 years. Disbursement of such funds shall be made by the intermediate district board of education pursuant to the intermediate SCHOOL district plan.

**R 340.1805 Allowance for room, board, and transportation. RESCIND**

~~—Rule 105. Room, board, and transportation costs for special education programs and services contracted for by the school district of residence shall be paid by that school district pursuant to the intermediate district plan. Parents of persons served shall not be responsible for the cost of room, board, and transportation.~~

**R 340.1806 Local school district contribution. RESCIND**

~~—Rule 106. The contribution to be made by the resident school district, if a basic education program for persons is operated by another party to the contract under the provisions of section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled Laws, shall be the total cost of the education program for each person minus the gross state aid membership allowance, categorical aid, and the intermediate school district reimbursement for each person.~~

**R 340.1808 Reporting costs.**

Rule 108. An intermediate school district, ~~establishing a program by contract with A~~ local school districts, OR A PUBLIC SCHOOL ACADEMY ~~or~~ operating a program under these rules shall submit, to the superintendent of public instruction, at the close of the fiscal year, an itemized report of the actual cost of operating the program, including the cost of transportation, on forms provided for that purpose. Reported actual costs for purposes of reimbursement shall include only those ~~which~~ THAT are reasonable and appropriate as determined by the superintendent of public instruction.

**R 340.1809 State aid to operating school districts. RESCIND**

~~—Rule 109. The intermediate district and its local districts shall be entitled to receive reimbursement for special education programs and services that are in compliance with these rules and in accordance with the intermediate school district plan as approved by the state board of education and as prescribed in Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.~~

**R 340.1810 Reimbursement of special education transportation. RESCIND**

~~—Rule 110. Specialized transportation or additional transportation, or both, as required in the individualized education program for a handicapped person to receive a free appropriate public education in the least restrictive educational environment, shall be reimbursable as authorized by Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.~~

**R 340.1811 Distribution of intermediate millage to THE INTERMEDIATE SCHOOL DISTRICT, ITS constituent SCHOOL districts AND PUBLIC SCHOOL ACADEMIES.**

Rule 111. (1) Only those ~~constituent district~~ programs and RELATED services ~~under a~~ PROVIDED PURSUANT TO state board OF EDUCATION-approved; intermediate school district special education plan and approved for reimbursement by the department shall be eligible for reimbursement from funds generated by adoption of millage under sections 1723 and 1724 of Act No. 451 of the Public Acts of 1976, as amended, being §§1976 PA 451, MCL 380.1723 and 380.1724 of the Michigan Compiled Laws.

~~(2) Determination of constituent district special education program and service costs shall be based solely upon costs as reported and allowed by the department which are in compliance with these rules. Costs of required transportation shall be included.~~

~~(3) All operational reimbursement claims shall be based upon the added cost system. Claims shall be calculated by subtracting from total special education program or service costs all state and federal reimbursements, including the gross state aid membership allowance and categorical aid. The net unreimbursed costs shall constitute the operational cost claim against intermediate school district special education tax funds.~~

~~(4)(2)~~ When IF intermediate school district special education tax funds are insufficient to reimburse constituent claims in full, THEN a like percentage of the claim shall be paid for support of each program and service to each constituent district. Claims for operation of special education programs and services available to all constituent districts may be reimbursed in full before any prorated payment which may become necessary for other programs and services.

~~(5)(3)~~ Current intermediate school district special education tax funds need not be used to offset operational claim deficits from prior years.

~~(6)(4)~~ Amounts may be retained by the intermediate school district for required cash flow purposes not to exceed 1 year's operational expenses for the purpose of maintaining special education programs and services operated by the intermediate school district.

~~(7)(5)~~ Intermediate school districts ~~desiring to distribute funds in a manner other than as set forth in subrules (2) to (4) of this rule and R 340.1812~~ shall submit the desired method FOR THE DISTRIBUTION OF FUNDS TO THE INTERMEDIATE SCHOOL DISTRICT, ITS CONSTITUENT SCHOOL DISTRICTS, AND PUBLIC SCHOOL ACADEMIES and the reasons therefore for approval as part of the intermediate school district plan required under section 1711 of Act No. 451 of the Public Acts of 1976, as amended, being §1976 PA 451, MCL 380.1711 of the Michigan Compiled Laws.

**R 340.1812 Intermediate school district's use of special education millage.**

Rule 112. (1) Costs for the operation of special education programs and services by the intermediate school district, available to all constituent LOCAL SCHOOL districts AND PUBLIC SCHOOL ACADEMIES, may be reimbursed in full before the reimbursement of local districts from funds generated by adoption of millage under sections 1723 and 1724 of Act No. 451 of the Public Acts of 1976, as amended, being §§1976 PA 451, MCL 380.1723 and 380.1724 of the Michigan Compiled Laws.

(2) ~~When~~ IF intermediate school district special education personnel offer direct services to ~~handicapped persons~~ STUDENTS WITH DISABILITIES in some but not all constituent

SCHOOL districts, and ~~when~~ IF prorated payment of constituent SCHOOL district operational claims is necessary, THEN the per capita deficit for each student served shall be paid by the district of residence or a direct charge shall be made to the local district based on the amount of deficit and the proportion of time the local SCHOOL district received the service from the intermediate SCHOOL district.

## **PART 7.**

### **DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS' PLANS AND MONITORING**

#### **R 340.1831 Plan and modification submission.**

Rule 131.(1) ~~On or before July 1 of 1986, on a cycle determined by the department,~~ Each intermediate school district board shall submit ~~its 3-year plan~~ AN INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION to the state board of education or its designee to become effective ~~on July 1 of the following year~~ WHEN APPROVED BY THE STATE BOARD OF EDUCATION.

(2) Any ~~intervening~~ INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION OR SUBSEQUENT modification APPROVED BY THE STATE BOARD OF EDUCATION ~~by the intermediate school district plan~~ shall be directed DISTRIBUTED BY THE INTERMEDIATE SCHOOL DISTRICT to each local school district superintendent, EACH CHIEF EXECUTIVE OFFICER OF A PUBLIC SCHOOL ACADEMY, and chairperson of the parent advisory committee within 7 calendar days of the intermediate school district'S board RECEIPT OF approval ~~of this modification~~ BY THE STATE BOARD OF EDUCATION.

(3) THE DEPARTMENT MAY REQUIRE AN INTERMEDIATE SCHOOL DISTRICT TO MODIFY ITS PLAN IF, AFTER THE EFFECTIVE DATE OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997, 20 U. S. C. §1400 ET SEQ., THE PROVISIONS OF EITHER THAT ACT, ITS REGULATIONS, 34 CFR 300.1, ET SEQ., THE SCHOOL CODE OF 1976 PA 451, MCL 380.1 ET SEQ., OR THESE RULES (R 340.1701 ET SEQ.) ARE AMENDED, OR THERE IS A NEW INTERPRETATION OF ANY OF THESE LAWS OR REGULATIONS BY AN AGENCY OR COURT, OR THE DEPARTMENT FINDS NONCOMPLIANCE.

(4) SUBJECT TO SUBRULE (3), A PLAN SUBMITTED BY AN INTERMEDIATE SCHOOL DISTRICT AND APPROVED BY THE STATE BOARD OF EDUCATION SHALL REMAIN IN EFFECT UNTIL THE INTERMEDIATE SCHOOL DISTRICT SUBMITS TO THE DEPARTMENT OF EDUCATION MODIFICATIONS THAT THE INTERMEDIATE SCHOOL DISTRICT DEEMS NECESSARY AND THE MODIFICATIONS ARE APPROVED BY THE STATE BOARD OF EDUCATION.

#### **R 340.1832 Content areas.**

Rule 132. (1) An intermediate school district plan for ~~the delivery of special education programs and services~~, or any modification thereof, shall be an operational plan that sets forth ~~those~~ THE special education programs and RELATED services to be delivered ~~during the school year for which the plan was written. The plan may also include any long-range plans for delivery of special education programs and services in future years.~~ The plan

shall comply with THE SCHOOL CODE OF 1976 PA 451, MCL (~~Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws~~), and these rules. ~~and~~ THE PLAN shall ALSO comply with the following format and include, at a minimum, ALL OF the following ~~content areas~~:

## **~~INTERMEDIATE SCHOOL DISTRICT PLANS~~**

### **~~Part 1. Comprehensive special education programs and services~~**

#### **~~Section 1.1. Procedural safeguards.~~**

(A) A DESCRIPTION OF ~~Describe any~~ THE procedural safeguards PROCEDURES required USED by the intermediate school district ~~that are necessary to: accomplish the following:~~

~~(1) Insure confidentiality and the protection of records.~~

~~(2) Provide parent notice and secure written consent before preplacement evaluation, or placement of a handicapped student.~~

~~(3) A~~Advise and inform handicapped persons STUDENTS WITH DISABILITIES, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES and intermediate school district; and the title, address, and telephone number of representatives of ~~both the local and intermediate school districts~~ THOSE AGENCIES who can provide information about the special education opportunities.

~~(4) Inform parents of their right to obtain an independent educational evaluation and due process hearing.~~

~~(5) Advise parents of the complaint process.~~

#### **~~Section 1.2. Public awareness~~**

(B) A DESCRIPTION OF ~~Describe~~ activities and outreach methods which are used to ~~insure~~ ENSURE that all citizens are aware of the availability of special education programs and services.

#### **~~Section 1.3. Referral system.~~**

~~Describe any procedures required by the intermediate school district for processing and reporting referrals for persons up to 25 years of age who are known to be, or suspected of being, handicapped.~~

#### **~~Section 1.4. Diagnostic services.~~**

(C) A DESCRIPTION OF ~~Describe~~ the type ~~and amount~~ of diagnostic AND RELATED services that are ~~directly operated~~ AVAILABLE, EITHER DIRECTLY OR AS A PURCHASED SERVICE, within the intermediate school district OR ITS CONSTITUENT LOCAL SCHOOL DISTRICTS OR PUBLIC SCHOOL ACADEMIES ~~and those purchased or contracted for from outside the intermediate school district.~~

#### **~~Section 1.5. Individualized educational planning committee procedure.~~**

~~(A) Describe the procedure for including eligible students on the intermediate central student registry.~~

~~(2) Describe any procedures required by the intermediate school district for both of the following:~~

~~(a) Determining eligibility, programs, and placement of handicapped students.~~

~~(b) Conducting and administering the individualized educational planning committee meeting.~~

~~Section 1.6. Continuum of special education programs and services.~~

~~(4)(D) A DESCRIPTION OF Describe the special education basic programs and supportive services, including vocational training programs designed to meet the educational needs of handicapped persons STUDENTS WITH DISABILITIES.~~

~~(E) WITHIN AN INTERMEDIATE SCHOOL DISTRICT, THE RATIO OF STUDENTS RECEIVING PROGRAMS OR SERVICES FROM A SPECIAL EDUCATION TEACHER IN THE 2001-2002 SCHOOL YEAR SHALL NOT EXCEED THE AVERAGE STUDENT/TEACHER RATIO COMPUTED FROM DATA COLLECTED ON THE DECEMBER 1, 2000, FEDERAL PUPIL COUNT DATE AND THE STATE AND FEDERAL COUNTS TAKEN IN THE SPRING AND FALL OF 2001. TEACHERS OF SPEECH AND LANGUAGE IMPAIRED WHO PROVIDE ONLY SERVICES UNDER R 340.1745 ARE EXCLUDED FROM THIS CALCULATION. ALL SPECIAL EDUCATION STUDENTS WHO RECEIVE PROGRAMS OR SERVICES FROM A SPECIAL EDUCATION TEACHER (AND FORMER TEACHER CONSULTANTS UNDER FORMER R 340.1749) ARE INCLUDED IN THIS CALCULATION, EXCEPT FOR STUDENTS WHO ONLY RECEIVE SERVICES UNDER R 340.1745.~~

~~(i) IN SUBSEQUENT SCHOOL YEARS, THE RATIO DETERMINED UNDER THIS SUBRULE SHALL REMAIN THE MAXIMUM RATIO (OR LESS) OF STUDENTS TO TEACHERS, UNLESS ALL OF THE FOLLOWING PARTIES AGREE TO AMEND THE RATIO:~~

~~(A) SUPERINTENDENTS OF INTERMEDIATE AND LOCAL SCHOOL DISTRICTS.~~

~~(B) CHIEF EXECUTIVE OFFICERS OF PUBLIC SCHOOL ACADEMIES.~~

~~(C) THE CHAIRPERSON OF THE INTERMEDIATE SCHOOL DISTRICT PARENT ADVISORY COMMITTEE.~~

~~(D) TEACHER BARGAINING UNITS.~~

~~(ii) ON THE SAME DATE THAT DATA ARE DUE TO THE STATE FOR STATE AND FEDERAL COUNTS, COUNT DATA INDICATING ALL INDIVIDUAL TEACHERS AND THEIR CASELOADS ARE ALSO DUE TO THE PARTIES LISTED IN THIS SUBDIVISION.~~

~~(iii) THE INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION SHALL DESCRIBE THE PROCEDURES, AGREEMENTS, CONTRACTS, OR OTHER METHODS OF ACHIEVING THIS RATIO.~~

~~(2) Describe any additional programs or services, including summer school programs, work activity centers, specialized programs, nursing homes, state hospitals, and mental health, correctional, and child care facilities.~~

~~(3) List the constituent districts that have been approved to graduate handicapped persons who are so impaired that they cannot complete the regular education program.~~

~~Section 1.7. Community integration and follow-up.~~

- ~~(1) — Describe the procedure used to assure integration of each handicapped person into the school and the community environment.~~
- ~~(2) — Describe the means by which the local school district and the intermediate school district shall determine the effectiveness of special education programs and services and the educational plan for each handicapped person.~~
- ~~(3) — Describe the procedure used to utilize the information gained from the 1 year follow-up to modify the delivery of special education programs and services. The follow-up system shall include a procedure used for determining the school community adjustments of handicapped persons for at least 1 year following termination of their special education programs and services.~~

**~~Part 2. Management of special education programs and services.~~**

~~Section 2.1. Administration of programs and services.~~

- ~~(4)(F) Identify THE IDENTITY OF the full- or part-time LOCAL SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY district administrator who, by position, is responsible for the implementation of special education programs and services.~~
- ~~(4) Describe any administrative procedure required by the intermediate school district for requesting deviations, processing objections to the intermediate school district plan, and investigating complaints.~~

~~Section 2.2. Qualified personnel.~~

- ~~(1) — Estimate the type of professional and paraprofessional personnel needed to provide the special education programs and services described in section 1.6.~~
- ~~(3) Describe the procedures required by the intermediate school district for determining the professional development needs of special education and general education staff and the plans for meeting these needs.~~
- ~~(G) THE INTERMEDIATE SCHOOL DISTRICT PLAN FOR SPECIAL EDUCATION SHALL DESCRIBE THE QUALIFICATIONS OF PARAPROFESSIONAL PERSONNEL.~~

~~Section 2.3. Facilities and transportation.~~

- ~~(H) A DESCRIPTION OF Describe the type of facilities and the transportation necessary to provide the special education programs and services described in SUBDIVISIONS (C) AND (D) OF THIS SUBRULE. section 1.6.~~

~~Section 2.4. Instructional content.~~

- ~~(1) — Describe procedures to be used by the intermediate district for approval of instructional content of special education programs and services.~~
- ~~(2) — The instructional content shall, at a minimum, include personal adjustment, prevocational and vocational training, and physical education.~~

~~Section 2.5 1.2 Monitoring and evaluation.~~

~~Describe the method, timetable, and criteria for monitoring and evaluating state institutions and public school special education programs and services within the intermediate district.~~

~~Section 2.6. Federal funds.~~

~~Describe for each anticipated grant or entitlement of federal monies the source of the funds, the anticipated manner in which it shall be utilized, and the process of how such funds shall be distributed to, or on behalf of, local school districts. Such description shall specifically include rationale for the distribution of funds based on the special education program and service needs within the intermediate school district.~~

(I) FOR INTERMEDIATE SCHOOL DISTRICTS DISTRIBUTING FUNDS UNDER R 340.1811(7) A DESCRIPTION OF THE METHOD OF DISTRIBUTION IN THE INTERMEDIATE SCHOOL DISTRICT PLAN.

**~~Part 3. Parent advisory committee.~~**

~~Section 3.12.1. Organizational structure of the parent advisory committee.~~

~~(H)(J) A DESCRIPTION OF Describe HOW THE INTERMEDIATE SCHOOL DISTRICT WILL APPOINT THE PARENT ADVISORY COMMITTEE MEMBERS UNDER R 340.1838(1) AND (2). the organizational structure of the committee, including officers and their responsibilities, meeting times, notice thereof, voting procedures, terms of office, and related matters.~~

~~Section 3.2. Role and responsibility of the parent advisory committee.~~

~~(H) (K) A DESCRIPTION OF Describe the role and responsibilityIES of the PARENT ADVISORY committee, including how it shall participate in the cooperative development of the plan, formulate objections thereto, if any, and related matters, such as the role and responsibility of the parent advisory committee in evaluating special education programs and services within the intermediate SCHOOL district.~~

~~(2)(L) A DESCRIPTION OF Describe the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the PARENT ADVISORY committee in its responsibilities.~~

~~Section 3.2.3. Administrative support of the parent advisory committee.~~

~~(M) A DESCRIPTION OF Describe the fiscal and staff resources that shall be secured or allocated to the committee by the intermediate school district to make it efficient and effective in operation.~~

**R 340.1833 Cooperative development and review.**

Rule 133. (1) Intermediate school district plans, or any modification thereof, shall be developed in cooperation with local school districts, PUBLIC SCHOOL ACADEMIES, and the parent advisory committee.

~~(a) All plans shall be reviewed with the representatives of each local school district and the parent advisory committee, in whole or in part, at least quarterly each fiscal year.~~

(2) IF AN INTERMEDIATE SCHOOL DISTRICT'S PROCESS AS SET FORTH IN R 340.1832 DOES NOT RESULT IN AGREEMENT AMONG THE INTERMEDIATE SCHOOL DISTRICT, ITS CONSTITUENT LOCAL SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES, AND THE PARENT ADVISORY COMMITTEE, REGARDING ANY PROVISION OF THE PLAN, THEN THE INTERMEDIATE SCHOOL DISTRICT SHALL DETERMINE THE CONTENT OF THE PLAN SUBMITTED. ANY

CONSTITUENT LOCAL SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR THE PARENT ADVISORY COMMITTEE MAY FILE AN OBJECTION UNDER R 340.1836.

**R 340.1834 ~~Joint plans.~~ RESCIND**

~~—Rule 134. Two or more intermediate school districts lying within an educational planning area as designated by the state board of education may submit a plan for the delivery of special education programs and services upon approval by the state board of education.~~

**R 340.1835 Plan signatures.**

Rule 135. Each intermediate school district plan, or modification thereof, shall be signed by all of the following:

- (a) The intermediate school district superintendent, signifying approval by the intermediate school district board.
- (b) The superintendent of each constituent school district, THE CHIEF EXECUTIVE OFFICE OF EACH PUBLIC SCHOOL ACADEMY, AND THE CHAIRPERSON OF THE PARENT ADVISORY COMMITTEE, signifying ~~district~~ THEIR involvement in the development of the plan.
- ~~(c) —The chairperson of the parent advisory committee, signifying committee involvement in the development of the plan.~~

**R 340.1836 Objections to plan; procedures.**

Rule 136. (1) ~~At the time the intermediate school district plan, or modification thereof, is submitted to the state board of education or its designee, a~~ Any constituent local school district, PUBLIC SCHOOL ACADEMY, or the parent advisory committee, may file WITH THE INTERMEDIATE SCHOOL DISTRICT, objections, IN WHOLE OR IN PART, to ~~the~~ AN APPROVED plan OR A PLAN MODIFICATION THAT HAS BEEN SUBMITTED TO THE STATE BOARD OF EDUCATION FOR APPROVAL ~~in whole or in part within 20-15 calendar days of receipt of a copy of the plan pursuant to R 340.1831.~~ Copies of the AN objection to the plan shall, WITHIN 7 CALENDAR DAYS, be directed TO THE DEPARTMENT by the intermediate SCHOOL DISTRICT board of education AND to all constituent local school districts, PUBLIC SCHOOL ACADEMIES, and the parent advisory committee by certified mail, return receipt requested.

~~(2)~~ Objections filed shall specify the portions of the plan objected to, contain a specific statement of the reasons for objection, and shall propose alternative provisions.

~~(3) The intermediate school district, a constituent local school district, or the parent advisory committee may file with the department a response to the objections on or before 20 calendar days from the date of receipt of the objections.~~

~~(4)(2) The intermediate school district or the objecting party shall have 7 calendar days from the date of receipt of the objections to direct to the department a written request for a hearing concerning the objections. If no request for hearing is made, The department may provide technical assistance to the involved parties or the state board of education may rule upon the plan based upon the objections and any answers or responses filed thereto. If a hearing is requested, a~~ A hearing officer SHALL BE designated by the department of education AND shall promptly give reasonable notice of the hearing. ~~and THE HEARING~~



shall begin ~~the hearing~~ not later than 30 calendar days from the date the request was filed with the department. THE HEARING SHALL BE CONDUCTED ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT. AFTER THE APPOINTMENT OF THE HEARING OFFICER, THE OBJECTION ~~The hearing~~ may be ~~adjourned~~ WITHDRAWN upon written stipulation of the intermediate school district and the objecting party.

(3) THE INTERMEDIATE SCHOOL DISTRICT, A CONSTITUENT LOCAL SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY, OR THE PARENT ADVISORY COMMITTEE MAY FILE, WITH THE DEPARTMENT, A RESPONSE TO THE OBJECTION BEFORE THE HEARING.

~~(5)(4)~~ Within ~~15~~ 30 calendar days after the closing of the hearing, the hearing officer shall ~~make-REPORT~~ findings of fact and conclusions of law and shall recommend to the state board of education whether the plan OR MODIFICATION TO THE PLAN should be approved as submitted, approved with such other modifications as deemed appropriate by the hearing officer, or the objections granted as submitted. ~~Such~~ THE findings and recommendations shall be immediately ~~served upon~~ MAILED BY the department ~~and~~ TO all parties ~~answering or responding~~ to the PLAN objections. Any party may file written exceptions to ~~such~~ THE findings and recommendations with the state board of education within 20 calendar days of receipt of the findings and recommendations and direct copies of the exceptions to all other parties and the department. ~~Oral argument regarding such exceptions may be permitted with the consent of the state board of education.~~ The findings, and recommendations of the hearing officer, including any exceptions, shall be submitted to the state board of education with the plan. The state board of education shall render a final decision within 30 calendar days from the date the exceptions were to be filed.

### **R 340.1837 Approval of plans.**

Rule 137. (1) Intermediate school district plans, or modification thereof, OR ANY CHANGES TO THEIR PLAN BASED ON AN OBJECTION TO THE PLAN, shall be approved by the state board of education ~~after the determination of any objections pursuant to~~ UNDER R 340.1836. ~~if such~~ THE plans OR MODIFICATIONS are SHALL BE in compliance with all of the following:

~~(a) The state plan for the delivery of special education programs and services~~

~~(b)(A) The provisions of sections 1701 to 1766 of Act No. 451 of the Public Acts of 1976, as amended, being §1976 PA 451, MCL 380.1701 to 380.1766 of the Michigan Compiled Laws.~~

~~(c)(B) Michigan rules promulgated to implement statutory provisions for special education programs and services.~~

~~(d)(C) Federal rules promulgated to implement statutory provisions for handicapped persons.~~ THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 20 U.S.C. §1400 ET SEQ., AND ITS IMPLEMENTING REGULATIONS, 34 C.F.R. §300.1 ET SEQ.

(2) Intermediate SCHOOL DISTRICT boards of education, constituent local school boards, PUBLIC SCHOOL ACADEMIES, and the parent advisory committee shall be advised by the state board of education or its designee as to whether the plan was approved, ~~on or before February 1 of the year in which the plan is to commence.~~ Notification of disapproval of a plan, or modification thereof, shall state the reasons therefore and shall

~~specify the action to be taken by the intermediate board of education, if any, and the date the plan is to be resubmitted.~~

**R 340.1838 Parent advisory committee.**

Rule 138. (1) A parent advisory committee shall be appointed by each intermediate school district board.

(a) The committee and its officers shall consist only of parents of ~~handicapped persons~~ STUDENTS WITH DISABILITIES with at least 1 parent from each constituent local school district AND PUBLIC SCHOOL ACADEMY.

(b) Each constituent local SCHOOL DISTRICT board of education AND EACH PUBLIC SCHOOL ACADEMY BOARD OF DIRECTORS shall nominate at least 1 parent.

(c) The intermediate school district board of education may nominate additional members not to exceed 33 1/3% of the total parent advisory committee membership.

(2) The intermediate SCHOOL DISTRICT board of education shall make every attempt to assure that all types of impairments and all identifiable organizationS of parents of ~~handicapped persons~~ STUDENTS WITH DISABILITIES within the intermediate school district are represented on the committee.

(3) The intermediate SCHOOL DISTRICT board of education may recommend operational procedures for committee review and adoption.

(4) The intermediate school district shall secure or allocate fiscal and staff resources to the committee to make it efficient and effective in operation.

(5) The parent advisory committee ~~shall have responsibility~~ IS RESPONSIBLE for determining and DOCUMENTING, IN WRITING, the organizational structure of the committee, including all of the following:

(a) Officers and their responsibilities.

(b) Meeting times.

(c) Notice of meeting times.

(d) Voting procedures.

(e) Terms of office.

(f) Related matters.

(6) The parent advisory committee shall participate in the development of the INTERMEDIATE SCHOOL district's plan OR ANY MODIFICATION OF THE PLAN for the delivery of special education programs and services as required by R 340.1833.

(7) The parent advisory committee may provide advisory input on any matters ~~which~~ THAT the committee deems appropriate to the improvement of special education services within the intermediate school district.

**R 340.1839 Monitoring and program evaluation.**

Rule 139. (1) The department shall establish, with approval of the state board of education, monitoring procedures, criteria, and evaluation activities to ~~insure~~ ENSURE that minimum standards are being achieved by all public agencies.

(2) Each intermediate school district shall implement monitoring procedures and evaluation methods developed by the department to ~~insure~~ ENSURE that the standards and criteria established are being achieved by the intermediate school district, ~~and~~ their constituent SCHOOL districts, AND THEIR PUBLIC SCHOOL ACADEMIES.

**PART 8.**  
**COMPLAINTS**

**R 340.1851      Intermediate school district's responsibility for investigation of complaints; report.**

Rule 151. (1) An intermediate school district, upon receipt of a complaint, shall investigate the complaint pursuant to these rules, and the procedures approved by the state board of education. The investigation shall include direct communication with the complainant or the complainant's authorized representative. The complainant shall be informed of the specific procedures for conducting the investigation, filing reports, and appealing the conclusions contained in the investigation report. The investigation shall be completed and a report shall be filed by the intermediate school district within 21 calendar days after the date of receipt of the complaint. The report shall be filed with the complainant, THE local educational agency OR PUBLIC SCHOOL ACADEMY, if applicable, and the department. The report shall contain information as specified in procedures approved by the state board of education and shall contain notification of the complainant's right to appeal the conclusions of the investigation and to have the department review the intermediate school district's decision on the complaint.

(2) The intermediate school district may contract with an independent agent to conduct the investigation or shall appoint a person who is a member of the special education staff to be responsible for investigating complaints under part 8 of these rules. The person shall not have administrative authority over programs or services against which a complaint may be filed. Copies of part 8 of these rules, and applicable procedures shall be made available by the intermediate school district for distribution to its employees, the employees of constituent local educational agencies, THE EMPLOYEES OF CONSTITUENT PUBLIC SCHOOL ACADEMIES, the public, and other agencies operating special education programs and services.

(3) An intermediate school district receiving a complaint under its jurisdiction shall, during the pendency of any proceeding stipulated in this rule, require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in its judgment, not doing so may constitute a violation of the student's due process protection or if so directed by the department.

**R 340.1852      Department responsibilities for processing complaints and conducting state investigations.**

Rule 152. (1) The department may, for good cause, investigate a signed written complaint pursuant to the procedures approved by the state board of education, regardless of the status of the investigation under R 340.1851.

(2) Upon receipt of a complainant's appeal for review of the intermediate school district's decision on the complaint, the department, pursuant to the procedures approved by the state board of education, shall do all of the following:

(a) Carry out an independent on-site investigation if the department determines that an investigation is necessary.

- (b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- (c) Review all relevant information and make an independent determination as to whether the public educational agency is violating any of the provisions of law specified in the definition of "complaint" in R 340.1701(g).
- (3) The department shall issue a written report to the complainant and to the educational agency against which the complaint was filed that addresses each allegation in the complaint and contains all of the following information:
  - (a) Findings of fact and conclusions.
  - (b) The reasons for the department's final decision.
  - (c) Procedures for effective implementation of the department's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.
- (4) The intermediate school district is responsible for assisting the agency in violation, for monitoring progress of the corrective action, and for informing the department when the corrections have been completed.
- (5) Proof of compliance shall be submitted by the educational agency that was in violation within the time line specified in the directive for correction.
- (6) Upon failure of an educational agency to correct known violations of law, upon failure of the educational agency in violation to cooperate with the department or the intermediate school district during the conduct of its investigation, or upon known falsification of fact or continued repetition of similar violations, the state board of education shall do 1 or more of the following:
  - (a) If the educational agency in violation is a local school district OR A PUBLIC SCHOOL ACADEMY, THEN the state board of education shall direct the intermediate school board to provide complying programs and services as stipulated in section 1702 of 1976 PA 451, MCL Act No. 451 of the Public Acts of 1976, as amended, being §380.1702 of the Michigan Compiled Laws.
  - (b) If the agency in violation is an intermediate school board DISTRICT, the state board of education may withdraw the authority of the intermediate district to operate a program in noncompliance and simultaneously require the local district of residence to place the affected student or students in an appropriate program.
  - (c) Withhold federal funds pursuant to the provisions of section 1414(b)(2)(a) UNDER SECTION 1413(D)(1) of the individuals with disabilities education act of 1990, 20 U.S.C. §1414(b)(2)(a) 1997, 20 U.S.C. §1413(d)(1).
  - (d) Apply other penalties, as stipulated in Act No. 451 of the Public Acts of 1976, as amended, being § 1976 PA 451, MCL 380.1 et seq. of the Michigan Compiled Laws.
  - (e) Withhold state funds UNDER Act No. 94 of the Public Acts of 1979, as amended, being § 1979 PA 94, MCL 388.1601 et seq. of the Michigan Compiled Laws, or any other governing statute.
  - (f) Withhold, withdraw, or suspend such endorsements, approvals, credentials, grants, or authorizations pertaining to special education personnel or projects that the state board of education or its designee had authority to grant as authorized by, and in accordance with, the procedures required by law.

(G) SEEK ENFORCEMENT IN A COURT OF APPROPRIATE JURISDICTION OF THE CORRECTIVE ACTION DETERMINED APPROPRIATE.

(7) The state board of education or its designee, during the pendency of any proceeding under part 8 of these rules, shall require any educational agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in the judgment of the state board of education or its designee, not doing so constitutes a violation of the student's due process protections.

~~The department shall notify the complainant and the public agency of the right to request the United States secretary of education to review the department's final decision.~~

### **R 340.1853 General responsibilities of all agencies for processing complaints and investigations.**

Rule 153. (1) The term "complaint" is defined in R 340.1701(g). All public educational agencies shall receive allegations of violations of state or federal regulations pertaining to special education. If the allegation is made orally, the recipient agency may take formal or informal action as necessary to resolve the situation in compliance with applicable provisions of law, but, at a minimum, shall immediately do all of the following:

(a) Inform the person making the allegation that he or she has a right to file a written formal complaint with the appropriate intermediate school district or with the department and to have that complaint investigated in accord with part 8 of these rules and procedures approved by the state board of education.

(b) Inform the person making the allegation that if he or she wishes to delay filing a formal complaint so that an informal resolution may be attempted, he or she retains the right to file a formal complaint if the informal attempts to resolve the concern in a timely manner are unsuccessful.

(c) Provide the person making the allegation with a copy of part 8 of these rules and the state board of education's procedures pertaining to complaints, and offer to assist the person to file the complaint.

(2) A person claiming to be acting on behalf of a complainant may be required to provide evidence of that authority.

(3) Complaints are initially investigated by the intermediate school district. At its discretion, the department, for good cause shown, may initiate a complaint or may conduct the initial investigation of the complaint instead of requiring the intermediate school district to investigate the complaint initially.

(4) A time limit of 60 calendar days after a complaint is filed is allotted for the intermediate school district to complete the investigation responsibilities under R 340.1851 and for the department to complete its review as specified in R 340.1852.

(5) An extension of time specified in part 8 of these rules may be granted by the department ~~for good cause shown~~ ONLY IF EXCEPTIONAL CIRCUMSTANCES EXIST WITH RESPECT TO A PARTICULAR COMPLAINT. A denial of an extension request is final.

## **PART 9. RECORDS AND CONFIDENTIALITY**

**R 340.1861 Records; maintenance; content; transfer of records; release of records.**

Rule 161. (1) A registry shall be maintained by intermediate school districts pursuant to PROCEDURES ESTABLISHED BY THE DEPARTMENT AND PURSUANT TO the provisions of section 1711 of ~~Act No. 451 of the Public Acts of 1976, as amended, being § 1976 PA 451, MCL 380.1711 of the Michigan Compiled Laws,~~ for all ~~handicapped persons~~ STUDENTS WITH DISABILITIES ~~up to 25 years of age,~~ as defined by ~~R 340.1703 to R 340.1715~~ R 340.1702, including ~~those persons~~ STUDENTS placed in state and privately operated facilities. The registry shall be an operational, active data base system with the capacity to provide up-to-date ~~pupil~~ STUDENT counts and other data requirements to the department on a timely basis. Each local school district, PUBLIC SCHOOL ACADEMY, or state agency shall provide the intermediate school district with a complete updated data record for each ~~handicapped~~ student WITH A DISABILITY. ~~This~~ THE updated record shall contain full-time equivalency data for each student enrolled in a special education program by the ~~unduplicated child~~ STUDENT count ~~dateS~~ REQUIRED IN THE STATE SCHOOL AID ACT and shall contain each student's data enrolled in programs and services by the ~~unduplicated child~~ STUDENT count date REQUIRED BY THE REGULATIONS IMPLEMENTING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 34 C.F.R. §300.1 ET SEQ.

~~(2) — Each record for the handicapped person shall include, at a minimum, all of the following:~~

- ~~(a) — The name, date of birth, sex, and racial or ethnic group.~~
- ~~(b) — Type of eligibility.~~
- ~~(c) — Transportation required.~~
- ~~(d) — Programs and services being rendered.~~
- ~~(e) — Full-time equivalency in special education.~~
- ~~(f) — Reason for leaving special education and anticipated service needs.~~
- ~~(g) — District of residence.~~
- ~~(h) — Program service code.~~

~~Each record may include other data needed by the district.~~

~~(3)(2) When~~ IF the residency of a ~~handicapped person~~ STUDENT WITH A DISABILITY changes from one intermediate school district to another, THEN the intermediate school district of previous residence shall transfer the records maintained under this rule to the new intermediate school district upon written request of the intermediate school district of ~~residency~~ RESIDENCE and the parent of the ~~handicapped person~~ STUDENT WITH A DISABILITY for whom the record was maintained.

~~(4) An intermediate school district shall request written consent of the parent of each handicapped person, presently or hereinafter on its records, before providing any agency or entity approved by the state board of education with information on record with the district under subrule (2) of this rule. If consent is not obtained, the district shall release the requested information to the agency or entity approved by the state board of education, except for the name of the handicapped person and the name, address, and telephone number of the parent.~~

**R 340.1862 Access rights. RESCIND**

—Rule 162. (1) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and within 45 calendar days after the request is made. Parents requesting records for use at an individualized educational planning committee meeting, a hearing, or an appeal shall be given access to their requested records immediately.

(2) —The right to inspect and review education records under this rule includes all of the following:

(a) —The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records.

(b) —The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records.

(c) —The right to have a representative of the parent inspect and review the records.

**R 340.1863 Record of access. RESCIND**

—Rule 163. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part, except for access obtained by parents and authorized employees of the participating agency. Records of access shall include the name of the party, the date access is given, and the purpose for which the party is authorized to use the records.

**R 340.1864 Records on more than 1 person. RESCIND**

—Rule 164. If any education record includes information on more than 1 person, the parent of each person shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

**R 340.1865 List of types and locations of education records. RESCIND**

—Rule 165. Each participating agency shall provide parents, upon request, with a list of the types and locations of education records collected, maintained, and used by the agency.

**R 340.1866 Fees. RESCIND**

—Rule 166. (1) A participating educationAL agency may charge a fee for copies of records made for the parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(2) —A participating agency shall not charge a fee to search for or retrieve information under this part.

**R 340.1867 Amendment of records at parent's request. RESCIND**

—Rule 167. (1) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the handicapped or suspected handicapped person may request the participating agency that maintains the information to amend the information.

(2) — ~~The agency shall decide whether to amend the information pursuant to the request within a reasonable period of time from receipt of the request.~~

(3) — ~~If the agency decides to refuse to amend the information pursuant to the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under R 340.1868.~~

**R 340.1868      ~~Opportunity for a hearing to challenge record information.~~  
RESCIND**

— ~~Rule 168. The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students.~~

**R 340.1869      ~~Hearing Procedures.~~ RESCIND**

— ~~Rule 169. The hearing required to be held by R 340.1868 shall, at a minimum, be conducted according to the following procedures:~~

(a) — ~~The hearing shall be held within a reasonable period of time after the educational agency or institution has received the request, and the parent of the person or the eligible person shall be given notice of the date, place, and time reasonably in advance of the hearing.~~

(b) — ~~The hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.~~

(c) — ~~The parent of the person or the eligible person shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under R 340.1868 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.~~

(d) — ~~The educational agency or institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.~~

(e) — ~~The decision of the agency or institution shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.~~

**R 340.1870      ~~Hearing resulting in finding of violation; finding of no violation.~~  
RESCIND**

— ~~Rule 170. (1) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, the agency shall amend the information accordingly and shall inform the parent in writing of the amendment.~~

(2) — ~~If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, it shall inform the parent of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency in the records the agency maintains on the person.~~

(3) — ~~Any explanation placed in the records of the person under this rule shall be maintained by the agency as part of the records of the person as long as the record or contested portion is maintained by the agency. If the records of the person or the contested~~



portion is disclosed by the agency to any party, the explanation shall also be disclosed to the party.

**R 340.1871 ~~Parental consent for disclosure of personally identifiable information.~~ RESCIND**

~~—Rule 171. (1) Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of participating agencies collecting or using the information under this part or before being used for any other purpose other than meeting a requirement of this part.~~

~~(2) Parental consent shall not be required for disclosure of personally identifiable information from the education records of a student if the disclosure meets the requirements of 45 C.F.R. §99.31.~~

**R 340.1872 ~~Confidentiality safeguards.~~ RESCIND**

~~—Rule 172. (1) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.~~

~~(2) One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information, including data stored in computers.~~

~~(3) All persons collecting or using personally identifiable information or using computer terminals or microcomputers shall receive training or instruction regarding the procedures required in safeguarding confidential material.~~

~~(4) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.~~

**R 340.1873 ~~Destruction of information.~~ RESCIND**

~~—Rule 173. (1) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the student.~~

~~(2) The information shall be destroyed at the request of the parents. However, a permanent student record of all of the following shall be maintained without time limitation:~~

~~(a) Name, address, and phone number.~~

~~(b) Grades.~~

~~(c) Attendance record.~~

~~(d) Classes attended.~~

~~(e) Grade level.~~

~~(f) Year of class completion.~~

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NOTICE OF PUBLIC HEARING

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**DEPARTMENT OF EDUCATION**  
**STATE BOARD OF EDUCATORS**  
**SPECIAL EDUCATION PROGRAMS AND SERVICES**

**ORR # 2001-021**

The Michigan Department of Education, Office of Special Education and Early Intervention Services (OSE/EIS), is making the following documents available for public comment and public hearings:

- Proposed Administrative Rules for Special Education at R340.1701 through R340.1873 of the Rules Relating to Education (many of the proposed changes will bring the state rules into alignment with federal law and regulations).
- An addendum to the proposed Administrative Rules for Special Education as required by the United States Department of Education, Office of Special Education Programs to assure federal compliance.
- An amendment to Michigan's Application for Funding under Part C of the Individuals with Disabilities Education Act to include the federal definition of "parent."

These documents are accessible at the Michigan Department of Education, at each intermediate school district, and on the Internet at <http://www.mde.state.mi.us/off/sped/PUBLICCOMMENT/PCIndex.html>

You are invited to review these documents and submit your comments about them. All comments will be reviewed and considered in the final version of these documents. Written comments will be accepted by the OSE/EIS through 5:00 p.m. on October 1, 2001. Comments may be submitted via e-mail (see website), facsimile (517) 373-7504, or surface mail to:

Mr. David Brock, Supervisor, Policy, Planning, and Compliance Program, Office of Special Education and Early Intervention Services, Michigan Department of Education, P. O. Box 30008, Lansing, Michigan 48909. The rules take effect seven days after the filing date.

Public hearings will be held by the Michigan Department of Education to receive comment on the changes to the application and rules at the following locations:

Valley Plaza Resort  
Hotels & Convention Center  
5221 Bay City Road  
Midland, Michigan 48642  
September 20, 2001, 6:30 p.m. – 9:00 p.m.  
September 21, 2001, 9:00 a.m. – 11:30 a.m.

McCamly Plaza Hotel  
Executive Conference Center  
50 Capitol Avenue, S.W.  
Battle Creek, Michigan 49017  
September 20, 2001, 6:30 p.m. – 9:00 p.m.  
September 21, 2001, 9:00 a.m. – 11:30 a.m.

If special accommodations are needed to participate in these public hearings, please call Ms. Meredith Hines at (517) 373-0924 by September 1, 2001.

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**NOTICE OF PROPOSED AND  
ADOPTED AGENCY GUIDELINES**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(h) Notice of proposed and adopted agency guidelines.”*

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NOTICE OF PROPOSED AND ADOPTED AGENCY GUIDELINES

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**DEPARTMENT OF ATTORNEY GENERAL  
TAKINGS ASSESSMENT GUIDELINES  
PROPERTY RIGHTS PRESERVATION ACT, 1996 PA 101, MCL 24.421 *ET SEQ***

**Notice of Proposed Guideline**

[Issued pursuant to Section 24 1969 PA 306, as amended being MCL 24.224]

**AGENCY GUIDELINE PROCEDURES**

"Guideline" means an agency statement or declaration of policy which the agency intends to follow, which does not have the force or effect of law, and which binds the agency but does not bind any other person.

Interested parties may express any views regarding the proposed guideline of the guideline's effect on a person to the agency.

**(I) Summary of proposed guidelines, including the subjects and issues involved.**

Update of the Takings Assessment Guidelines to include discussion of additional United States and Michigan Supreme Court decisions. The guidelines, as updated, are intended to assist the Department of Environmental Quality, Department of Natural Resources, and Department of Transportation in identifying and evaluating government actions that may result in takings of property as defined by the United States and Michigan Supreme Courts. The Guidelines are to be reviewed internally by these Departments prior to taking any government action. They are not intended and shall not be construed to expand or confer any private rights. The Guidelines do not abrogate those Departments' or their employees' duty to enforce any law or regulation.

**(II) Proposed effective date.**

September 17, 2001

**(III) Address to which written comments may be sent.**

A. Michael Leffler  
Assistant Attorney General in Charge  
Department of Attorney General  
Natural Resources and Environmental Quality Division  
Knapp's Office Centre, Suite 315  
300 South Washington Square  
Lansing, MI 48913

**(IV) Deadline for comments (shall not be less than 35 days after mailing of notice)**

August 24, 2001

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**EXECUTIVE ORDERS  
AND  
EXECUTIVE REORGANIZATION ORDERS**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*(a) Executive orders and executive reorganization orders.”*

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER**

**No. 2001 - 2**

**RESCISSION OF EXECUTIVE ORDER NO. 2001 - 1**

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units, which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the state of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor, unless otherwise provided by the Constitution; and

WHEREAS, the Michigan Legislature has passed legislation creating the Department of History, Arts and Libraries; and

WHEREAS, the legislation creating the Department of History, Arts and Libraries is substantially similar to the provisions of Executive Order 2001-1 creating the Department of History, Arts and Culture; and

WHEREAS, in fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963 the provisions of Executive Order 2001-1 become effective August 5, 2001.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:



Executive Order 2001-1, creating the Department of History, Arts and Culture, is hereby rescinded in its entirety.

The provisions of this Executive Order shall become effective upon filing.

Given under my hand and the Great  
Seal of the State of Michigan this  
\_\_\_\_\_ day of July, in the Year of our  
Lord, Two Thousand One.

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GOVERNOR

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BY THE GOVERNOR

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2001 SESSION)**

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*Mich. Const. Art. IV, §33 provides: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated."*

*Mich. Const. Art. IV, §27, further provides: "No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."*

*MCL 24.208 states in part:*

*"Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year."*

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2001 SESSION)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		71	Yes	3/29	3/29	06/01/01	<b>CRIMES;</b> Homicide; certain crimes against prenatal children; expand to include death to the embryo or fetus. <b>(Sen. W. Van Regenmorter)</b>
2		70	Yes	3/29	3/29	6/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for crime of killing fetus or embryo; enact. <b>(Sen. B. Schuette)</b>
3		199	No	3/29	3/29	07/01/02	<b>INSURANCE;</b> No-fault; Michigan catastrophic claims association retention limits; provide for. <b>(Sen. J. Emmons)</b>
4	4322		Yes	3/30	3/30	03/30/01	<b>INSURANCE;</b> Insurers; coverage for home health care or assisted living services and assisted living facility stays; require definition. <b>(Rep. S. Tabor)</b>
5	4234		Yes	4/11	4/12	04/12/01	<b>TRANSPORTATION;</b> Railroads; amount contributed by road authority for maintenance of active traffic control devices; revise. <b>(Rep. J. Allen)</b>
6		1	Yes	5/2	5/2	05/02/01	<b>CRIMINAL PROCEDURE;</b> Statute of limitations; statute of limitations for certain cases of criminal sexual conduct in which DNA evidence was obtained; eliminate. <b>(Sen. S. Johnson)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

## 2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
7		341	Yes	5/24	5/24	05/24/01	<b>PROPERTY TAX;</b> Millage; state education tax act; expand to include a credit against tax levied under certain circumstances. <b>(Sen. M. Goschka)</b>
8	4187		Yes	5/24	5/25	05/25/01	<b>CORRECTIONS;</b> Prisoners; visitation; clarify procedures regarding minors visiting prisoners. <b>(Rep. T. Stamas)</b>
9		67	Yes	5/29	5/29	05/29/01	<b>FAMILY LAW;</b> Marriage and divorce; section prohibiting certain marriages; repeal. <b>(Sen. B. Hammerstrom)</b>
10		103	Yes	5/29	5/29	5/29/2001 #	<b>FAMILY LAW;</b> Marriage and divorce; reference in "the code of criminal procedure" to section being repealed; strike out. <b>(Sen. B. Hammerstrom)</b>
11		104	Yes	5/29	5/29	05/29/01	<b>FAMILY LAW;</b> Marriage and divorce; reference to section being repealed in "revised judicature act of 1961"; strike out. <b>(Sen. M. Goschka)</b>
12		38	Yes	5/29	5/29	07/01/01	<b>WATERCRAFT;</b> Intoxication; maximum imprisonment for boating under the influence; increase. <b>(Sen. W. North)</b>
13		150	Yes	5/29	5/29	7/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for boating under the influence; provide for. <b>(Sen. W. North)</b>
14	4099		Yes	6/5	6/6	9/1/2001 #	<b>HUMAN SERVICES;</b> Children's services; self-defense training of children's protective services caseworkers; require, and allow children's protective services caseworkers to perform certain duties in pairs. <b>(Rep. A. Sanborn)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
15	4409		Yes	6/11	6/12	6/12/2001 #	<b>VEHICLES;</b> Snowmobiles; snowmobile trail permit fee; increase and provide for allocation, increase civil fine for failure to secure a permit, and require report on expenditure of increase. <b>(Rep. D. Mead)</b>
16	4538		Yes	6/11	6/12	6/12/2001 #	<b>VEHICLES;</b> Snowmobiles; snowmobile trail permit fee; provide for allocation of increase. <b>(Rep. D. Mead)</b>
17	4235		Yes	6/11	6/12	6/12/01	<b>HIGHWAYS;</b> Name; renaming of M-109; establish as "D.H. Day Highway". <b>(Rep. J. Allen)</b>
18	4550		Yes	6/11	6/12	6/12/01	<b>TRAFFIC CONTROL;</b> Parking; disabled person parking permit; allow for out-of-state physician signatures accompanied by a copy of the physician's license to practice. <b>(Rep. G. DeRossett)</b>
19		75	Yes	6/11	6/12	9/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; crime of impersonating a family independence agency employee; include in sentencing guidelines. <b>(Sen. J. Gougeon)</b>
20		74	Yes	6/11	6/12	9/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; crime of threatening or physically harming a family independence agency employee; include in sentencing guidelines. <b>(Sen. B. Hammerstrom)</b>
21		73	Yes	6/11	6/12	9/1/2001 #	<b>CRIMES;</b> Fraud; penalties for impersonating a family independence agency employee; provide for. (Sen. J. Gougeon)
22		72	Yes	6/11	6/12	9/1/2001 #	<b>CRIMES;</b> Penalties; penalties for individuals who threaten or impose physical harm to a family independence agency employee; create. <b>(Sen. B. Hammerstrom)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

## 2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
23	4412		Yes	6/17	6/18	06/18/01	<b>NATURAL RESOURCES;</b> Hunting; shooting preserves; change to game bird hunting preserves, revise licensing fee, and eliminate rule-making authority. <b>(Rep. L. DeVuyst)</b>
24		431	Yes	6/17	6/18	06/18/01	<b>INSURANCE;</b> Other; privacy requirements; enact. <b>(Sen. B. Bullard Jr.)</b>
25	4029		Yes	6/18	6/19	01/01/02	<b>INSURANCE;</b> Other; claim history dollar amounts for nonrenewal of homeowner's policy; increase. <b>(Rep. A. Richner)</b>
26	4166		Yes	6/21	6/22	06/22/01	<b>HEALTH;</b> Death; county medical examiner conducting statutorily required investigation of a death; grant subpoena power to require production of medical records, books, papers, documents, and other items. <b>(Rep. G. Van Woerkom)</b>
27	4429		Yes	6/21	6/22	06/22/01	<b>EDUCATION;</b> Board members; appointed members as part of majority vote requirement; include. <b>(Rep. T. Meyer)</b>
28	4505		Yes	6/21	6/22	06/22/01	<b>CONSTRUCTION;</b> Contracts; notification of certain differing site conditions; repeal sunset. <b>(Rep. J. Gilbert I)</b>
29	4630		Yes	6/28	6/28	06/28/01	<b>EDUCATION;</b> School districts; school districts to adopt parental involvement contracts; encourage and require department to develop model. <b>(Rep. W. Kuipers)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
30	4789		Yes	6/28	6/29	06/29/01	<b>RETIREMENT</b> ; Public school employees; postretirement earnings limitations; revise and extend certain sunset dates. <b>(Rep. J. Allen)</b>
31		56	Yes	6/28	6/29	06/29/01	<b>RECORDS</b> ; Other; vital records fees; increase. <b>(Sen. J. Schwarz)</b>
32		195	Yes	6/28	6/29	06/29/01	<b>LAW ENFORCEMENT</b> ; Fire personnel; civilian injured during fire demonstration; require state fire marshal to investigate. <b>(Sen. M. Goschka)</b>
33		350	Yes	6/28	6/29	06/29/01	<b>AGRICULTURE</b> ; Animals; testing requirements for equines; revise and establish identification system. <b>(Sen. L. Stille)</b>
34		29	Yes	6/28	6/29	03/01/02	<b>LOCAL GOVERNMENT</b> ; Bonds; revised municipal finance act; adopt. <b>(Sen. J. Emmons)</b>
35	4222		Yes	6/28	6/29	6/29/2001 #	<b>COUNTIES</b> ; Other; annual report to state board of assessors; require county tax or equalization department to make. <b>(Rep. M. Mortimer)</b>
36	4223		Yes	6/28	6/29	6/29/2001 #	<b>COUNTIES</b> ; Other; annual tabular statement to state tax commission; require county tax or equalization department to make. <b>(Rep. M. Mortimer)</b>
37		360	Yes	7/10	7/11	7/11/2001 #	<b>CITIES</b> ; Other; cities to form nonprofit corporations; allow. <b>(Sen. J. Gougeon)</b>
38		361	Yes	7/10	7/11	7/11/2001 #	<b>CITIES</b> ; Other; nonprofit corporations formed by cities; make subject to open meetings act. <b>(Sen. J. Gougeon)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
39		491	Yes	7/11	7/11	07/11/01	<b>USE TAX;</b> Exemptions; aircraft used in commercial transport of passengers; exempt sale for lease. <b>(Sen. B. Bullard Jr.)</b>
40		492	Yes	7/11	7/11	07/11/01	<b>SALES TAX;</b> Exemptions; aircraft used in commercial transport of passengers; exempt sale for lease. <b>(Sen. B. Bullard Jr.)</b>
41	4255		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Corrections; department of corrections; provide for fiscal year 2001-2002. <b>(Rep. C. LaSata)</b>
42	4256		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Education; department of education; provide for fiscal year 2001-2002. <b>(Rep. R. Jelinek)</b>
43	4257		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Environmental quality; department of environmental quality; provide for fiscal year 2001-2002. <b>(Rep. D. Mead)</b>
44	4259		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Natural resources; department of natural resources; provide for fiscal year 2001-2002. <b>(Rep. D. Mead)</b>
45		231	Yes	7/19	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> Capital outlay; 2001-2002 fiscal year; provide for. <b>(Sen. H. Gast)</b>
46		256	Yes	7/20	7/23	07/23/01	<b>LIQUOR;</b> Other; employee samples of certain alcoholic beverages; allow under certain conditions. <b>(Sen. S. Johnson)</b>
47		396	Yes	7/20	7/23	07/23/01	<b>HIGHWAYS;</b> Signs; signs on limited access highways disclosing hospital name and highway exit number; require. <b>(Sen. T. McCotter)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar



2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
48		446	Yes	7/20	7/23	07/23/01	<b>PUBLIC UTILITIES;</b> Other; clarification of public utilities; provide for. <b>(Sen. M. Dunaskiss)</b>
49	4792		Yes	7/20	7/23	07/23/01	<b>ENVIRONMENTAL PROTECTION;</b> Air pollution; fee structure that funds air quality operating permit program; revise. <b>(Rep. C. LaSata)</b>
50	4912		Yes	7/20	7/23	07/23/01	<b>NATURAL RESOURCES;</b> Trust funds; game and fish trust fund; authorize annual appropriation of \$6,000,000.00 from corpus to game and fish protection fund. <b>(Rep. L. DeVuyst)</b>
51		238	Yes	7/20	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> State police; department of state police; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
52	4253		Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Community colleges; community and junior colleges; provide for fiscal year 2001-2002. <b>(Rep. T. Stamas)</b>
53		230	Yes	7/20	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> Agriculture; department of agriculture; provide for fiscal year 2001-2002. <b>(Sen. G. McManus Jr.)</b>
54		237	Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Military affairs; department of military affairs; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
55		236	Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Other; judiciary budget; provide for fiscal year 2001-2002. <b>(Sen. W. North)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

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2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
56	4576		Yes	7/23	7/23	07/23/01	<b>HIGHWAYS;</b> Name; renaming a certain portion of I-69; establish as "Pearl Harbor Memorial Highway". <b>(Rep. L. Julian)</b>
57		206	Yes	7/23	7/23	07/23/01	<b>BUSINESSES;</b> Business corporations; general amendments; provide for. <b>(Sen. B. Bullard Jr.)</b>
58		216	Yes	7/23	7/23	07/23/01	<b>BUSINESSES;</b> Other; professional services corporations; clarify applicability of business corporations act to. <b>(Sen. B. Bullard Jr.)</b>
59		239	Yes	7/23	7/24	7/24/2001 +	<b>APPROPRIATIONS;</b> Transportation; state transportation department; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
60	4254		Yes	7/23	7/24	7/24/2001 +	<b>APPROPRIATIONS;</b> Community health; department of community health; provide for fiscal year 2001-2002. <b>(Rep. M. Mortimer)</b>
61	4939		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Department of management and budget act; transfer management and operation of the Michigan library and historical center facilities to the department of management and budget. <b>(Rep. T. George)</b>
62	4940		Yes	7/23	7/24	10/01/01	<b>STATE AGENCIES (PROPOSED);</b> Library of Michigan act; transfer to department of history, arts, and libraries. <b>(Rep. T. George)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

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## 2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
63	4941		Yes	7/23	7/24	08/06/01	<b>STATE AGENCIES (PROPOSED);</b> Department of history, arts, and libraries; create in statute. <b>(Rep. G. Van Woerkom)</b>
64	4942		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> District library establishment act; transfer to department of history, arts, and libraries. <b>(Rep. L. Lemmons III)</b>
65	4943		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> State aid to public libraries; transfer to department of history, arts, and libraries. <b>(Rep. M. Middaugh)</b>
66	4944		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan historical commission; transfer to department of history, arts, and libraries. <b>(Rep. J. Kooiman)</b>
67	4945		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Local historic districts act; transfer to department of history, arts, and libraries. <b>(Rep. A. Sanborn)</b>
68	4946		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Preservation of historical sites under the jurisdiction of downtown development authority; transfer to department of history, arts, and libraries. <b>(Rep. P. Birkholz)</b>
69	4947		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Single business tax credit for rehabilitation of a historic resource with certification by Michigan historical center; transfer to department of history, arts, and libraries. <b>(Rep. M. Bishop)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
70	4948		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Income tax credit for rehabilitation of historic resource with certification by Michigan historic center; transfer to department of history, arts, and libraries. <b>(Rep. S. Vear)</b>
71	4949		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Records management, retention, disposal, inspection, inventory, protection, and preservation; transfer to department of history, arts, and libraries. <b>(Rep. J. Rivet)</b>
72	4950		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Records media act; transfer to department of history, arts, and libraries. <b>(Rep. P. Zelenko)</b>
73	4951		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Historic sites; transfer to department of history, arts, and libraries. <b>(Rep. M. Mortimer)</b>
74	4952		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Authority to promulgate rules to provide for the disclosure of the location of archaeological sites; transfer to department of history, arts, and libraries. <b>(Rep. J. Koetje)</b>
75	4953		Yes	7/23	7/24	07/24/01 #	<b>STATE AGENCIES (PROPOSED);</b> Aboriginal records and antiquities; transfer to department of history, arts, and libraries. <b>(Rep. J. Gilbert II)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.
- \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.
- \*\*\* - See Act for applicable effective date.
- + - Line item veto
- # - Tie bar

2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
76	4954		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Reproduction and destruction of court records; transfer to department of history, arts, and libraries. <b>(Rep. W. McConico)</b>
77	4955		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan iron industry museum advisory board; transfer to department of history, arts, and libraries. <b>(Rep. D. Bovin)</b>
78	4956		Yes	7/23	7/24	8/6/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Mackinac Island state park commission and property under its control; transfer to department of history, arts, and libraries. <b>(Rep. S. Tabor)</b>
79	4957		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan freedom trail commission; transfer to department of history, arts, and libraries. <b>(Rep. S. Thomas III)</b>
80		232	Yes	7/23	7/25	07/25/01	<b>APPROPRIATIONS;</b> Other; department of career development and Michigan strategic fund; provide for fiscal year 2001-2002. <b>(Sen. S. Johnson)</b>
81		283	Yes	7/25	7/25	7/25/2001 +	<b>APPROPRIATIONS;</b> Supplemental; supplemental appropriation; provide for fiscal year 2000-2001. <b>(Sen. H. Gast)</b>
82		235	Yes	7/25	7/25	7/25/2001 +	<b>APPROPRIATIONS;</b> Family independence agency; family independence agency; provide for fiscal year 2001-2002. <b>(Sen. M. Goschka)</b>

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2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
83		234	Yes	7/25	7/25	07/25/01	<b>APPROPRIATIONS;</b> General; general government; provide for fiscal year 2001-2002. <b>(Sen. J. Schwarz)</b>
84		394	Yes	7/26	7/26	1/1/2002 #	<b>JUVENILES;</b> Criminal procedure; DNA samples to be collected from certain juvenile offenders; require. <b>(Sen. B. Bullard Jr.)</b>
85	4633		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples under the youth rehabilitation services act from all individuals who have been convicted of or found responsible for a felony; require. <b>(Rep. W. O'Neil)</b>
86	4612		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples by the department of corrections from all individuals who have been convicted of a felony; require. <b>(Rep. M. Kowall)</b>
87		389	Yes	7/26	7/26	1/1/2002 #	<b>LAW ENFORCEMENT;</b> State police; DNA database; expand to include certain crimes and juvenile offenses. <b>(Sen. W. Van Regenmorter)</b>
88	4610		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples; expand to all convicted felons and provide penalty for refusing to give sample. <b>(Rep. J. Faunce)</b>

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- \*\*\* - See Act for applicable effective date.
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- # - Tie bar

2001 MR 14

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
89	4613		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples under the Michigan penal code from all individuals who have been convicted of a felony; require. <b>(Rep. T. George)</b>
90		393	Yes	7/26	7/26	1/1/2002 #	<b>JUVENILES;</b> Criminal procedure; DNA samples to be collected from certain juvenile offenders; require. <b>(Sen. T. McCotter)</b>
91	4611		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples under the probate code of 1939 from all individuals who have been convicted of or found responsible for a felony; require. <b>(Rep. L. Julian)</b>

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\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2001 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(i) Other official information considered necessary or appropriate by the office of regulatory reform.”*

*The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*



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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2001 RULE FILINGS)**

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R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
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29.602	R	5	29.1504	A	5	29.1810	A	5
29.603	R	5	29.1506	A	5	29.1821	A	5
29.604	R	5	29.1507	A	5	29.1822	A	5
29.605	R	5	29.1508	A	5	29.1823	A	5
29.621	R	5	29.1509	A	5	29.1824	A	5
29.622	R	5	29.1701	A	5	29.1831	A	5
29.1001	R	5	29.1702	A	5	29.1832	A	5
29.1002	R	5	29.1703	A	5	29.1841	A	5
29.1003	R	5	29.1704	A	5	29.1842	A	5
29.1004	R	5	29.1705	A	5	29.1851	A	5
29.1005	R	5	29.1706	A	5	29.1852	A	5
29.1006	R	5	29.1707	A	5	29.1861	A	5
29.1007	R	5	29.1708	A	5	125.1025	R	12
29.1008	R	5	29.1710	A	5	125.1175	R	12
29.1009	R	5	29.1711	A	5	324.102	*	2
29.1010	R	5	29.1721	A	5	324.416	*	2
29.1021	R	5	29.1722	A	5	324.504	*	2
29.1022	R	5	29.1723	A	5	324.1008	*	2
29.1023	R	5	29.1731	A	5	324.1012	*	2
29.1024	R	5	29.1732	A	5	324.1103	*	2
29.1031	R	5	29.1733	A	5	324.1105	*	2
29.1032	R	5	29.1801	A	5	324.1110	*	2
29.1041	R	5	29.1802	A	5	324.1113	*	2
29.1042	R	5	29.1803	A	5	324.1122	*	2
29.1051	R	5	29.1804	A	5	324.1125	*	2
29.1052	R	5	29.1805	A	5	324.1129	*	2
29.1053	R	5	29.1806	A	5	324.1130	A	2
29.1501	A	5	29.1807	A	5	324.8915	A	1
29.1502	A	5	29.1808	A	5	325.2111	*	2

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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325.2113	*	2	325.2146	*	2	325.3801	*	10
325.2113a	A	2	325.2151	*	2	325.3802	*	10
325.2114	*	2	325.2152	*	2	325.3803	A	10
325.2115	*	2	325.2153	*	2	325.3811	*	10
325.2116	*	2	325.2154	*	2	325.3812	*	10
325.2117	*	2	325.2155	*	2	325.3815	*	10
325.2118	*	2	325.2156	*	2	325.3816	*	10
325.2118a	*	2	325.2157	*	2	325.3817	R	10
325.2118b	*	2	325.2158	*	2	325.3818	R	10
325.2121	*	2	325.2159	*	2	325.3819	R	10
325.2122	*	2	325.2161	*	2	325.3826	*	10
325.2123	*	2	325.2163	*	2	325.3828	*	10
325.2124	A	2	325.2165	*	2	325.3832	*	10
325.2125	*	2	325.2171	*	2	325.3835	*	10
325.2126	*	2	325.2174	*	2	325.3851	R	10
325.2127	*	2	325.2175	*	2	325.3857	*	10
325.2128	*	2	325.2176	*	2	325.3866	*	10
325.2129	*	2	325.2178	*	2	325.3867	*	10
325.2129a	A	2	325.2179	A	2	325.3868	*	10
325.2131	*	2	325.2181	*	2	325.3868a	A	10
325.2132	*	2	325.2182	A	2	325.10101	*	9
325.2133	*	2	325.2183	A	2	325.10102	*	9
325.2134	*	2	325.2184	A	2	325.10103	*	9
325.2135	A	2	325.2191	*	2	325.10104	*	9
325.2136	*	2	325.2192	*	2	325.10105	*	9
325.2137	*	2	325.2193	*	2	325.10106	*	9
325.2138	*	2	325.2194	*	2	325.10107	*	9
325.2141	*	2	325.2194a	A	2	325.10108	*	9
325.2142	*	2	325.2195	*	2	325.10109	*	9
325.2143	*	2	325.2196	*	2	325.10110	*	9
325.2143a	A	2	325.2197	*	2	325.10411	A	9
325.2144	*	2	325.2198	*	2	325.10412	A	9
325.2145	*	2	325.2199	*	2	325.10413	A	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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325.10414	A	9	325.10712	*	9	325.10807	*	9
325.10415	A	9	325.10713	*	9	325.10808	*	9
325.10416	A	9	325.10714	*	9	325.10809	*	9
325.10417	A	9	325.10715	*	9	325.10810	*	9
325.10418	A	9	325.10716	*	9	325.10811	*	9
325.10419	A	9	325.10717	*	9	325.10812	*	9
325.10420	A	9	325.10718	*	9	325.10813	*	9
325.10501	*	9	325.10719	*	9	325.10814	*	9
325.10502	*	9	325.10720	*	9	325.10815	*	9
325.10503	*	9	325.10721	*	9	325.10816	*	9
325.10504	*	9	325.10722	*	9	325.10817	*	9
325.10505	*	9	325.10723	*	9	325.10818	*	9
325.10506	*	9	325.10724	*	9	325.10819	*	9
325.10601	*	9	325.10725	*	9	325.10820	*	9
325.10602	*	9	325.10726	*	9	325.10821	*	9
325.10603	*	9	325.10727	*	9	325.10822	*	9
325.10604	*	9	325.10728	*	9	325.10823	*	9
325.10605	*	9	325.10729	*	9	325.10824	*	9
325.10606	*	9	325.10730	*	9	325.10825	*	9
325.10607	*	9	325.10731	*	9	325.10826	*	9
325.10608	*	9	325.10732	*	9	325.10827	*	9
325.10609	*	9	325.10733	*	9	325.10828	*	9
325.10701	*	9	325.10734	*	9	325.10829	*	9
325.10702	*	9	325.10735	*	9	325.10830	*	9
325.10703	*	9	325.10736	*	9	325.10831	*	9
325.10704	*	9	325.10737	*	9	325.10832	*	9
325.10705	*	9	325.10738	*	9	325.10833	*	9
325.10706	*	9	325.10801	*	9	325.10901	*	9
325.10707	*	9	325.10802	*	9	325.10902	*	9
325.10708	*	9	325.10803	*	9	325.10903	*	9
325.10709	*	9	325.10804	*	9	325.10904	*	9
325.10710	*	9	325.10805	*	9	325.10905	*	9
325.10711	*	9	325.10806	*	9	325.10906	*	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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325.10907	*	9	325.11115	*	9	325.11505	*	9
325.10908	*	9	325.11116	*	9	325.11506	*	9
325.10909	*	9	325.11117	*	9	325.11601	*	9
325.11001	*	9	325.11118	*	9	325.11602	*	9
325.11002	*	9	325.11201	*	9	325.11603	*	9
325.11003	*	9	325.11202	*	9	325.11604	*	9
325.11004	*	9	325.11203	*	9	325.11701	*	9
325.11005	*	9	325.11204	*	9	325.11702	*	9
325.11006	*	9	325.11205	*	9	325.11703	*	9
325.11007	*	9	325.11206	*	9	325.11704	*	9
325.11008	*	9	325.11207	*	9	325.11705	*	9
325.11009	*	9	325.11301	*	9	325.11706	*	9
325.11010	*	9	325.11302	*	9	325.11707	*	9
325.11011	*	9	325.11303	*	9	325.11708	*	9
325.11012	*	9	325.11304	*	9	325.11709	*	9
325.11013	*	9	325.11305	*	9	325.11710	*	9
325.11014	*	9	325.11306	*	9	325.11711	*	9
325.11015	*	9	325.11307	*	9	325.11712	*	9
325.11016	*	9	325.11308	*	9	325.11713	*	9
325.11101	*	9	325.11309	*	9	325.11901	*	9
325.11102	*	9	325.11310	*	9	325.11902	*	9
325.11103	*	9	325.11311	*	9	325.11903	*	9
325.11104	*	9	325.11401	*	9	325.11904	*	9
325.11105	*	9	325.11402	*	9	325.11905	*	9
325.11106	*	9	325.11403	*	9	325.11906	*	9
325.11107	*	9	325.11404	*	9	325.11907	*	9
325.11108	*	9	325.11405	*	9	325.11908	*	9
325.11109	*	9	325.11406	*	9	325.11909	*	9
325.11110	*	9	325.11407	*	9	325.11910	*	9
325.11111	*	9	325.11501	*	9	325.11911	*	9
325.11112	*	9	325.11502	*	9	325.11912	*	9
325.11113	*	9	325.11503	*	9	325.11913	*	9
325.11114	*	9	325.11504	*	9	325.11914	*	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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325.11916	*	9	325.12509	*	9	325.12820	*	9
325.11917	*	9	325.12510	*	9	325.47201	A	14
325.11918	*	9	325.12601	*	9	325.47801	A	13
325.12101	*	9	325.12602	*	9	325.50251	A	10
325.12102	*	9	325.12603	*	9	325.50252	A	10
325.12103	*	9	325.12604	*	9	325.50253	A	10
325.12104	*	9	325.12605	*	9	325.50254	A	10
325.12105	*	9	325.12606	*	9	325.50255	A	10
325.12106	*	9	325.12701	*	9	325.50256	A	10
325.12107	*	9	325.12702	*	9	325.50257	A	10
325.12108	*	9	325.12703	*	9	325.50258	A	10
325.12109	*	9	325.12704	*	9	325.50902	A	13
325.12110	*	9	325.12705	*	9	325.51004	A	13
325.12301	*	9	325.12706	*	9	325.51102	*	8
325.12302	*	9	325.12801	*	9	325.51103	*	8
325.12303	*	9	325.12802	*	9	325.51104	*	8
325.12304	*	9	325.12803	*	9	325.51105	*	8
325.12401	*	9	325.12804	*	9	325.51106	R	8
325.12402	*	9	325.12805	*	9	325.51108	*	8
325.12403	*	9	325.12806	*	9	325.70001	*	13
325.12404	*	9	325.12807	*	9	325.70002	*	13
325.12405	*	9	325.12808	*	9	325.70004	*	13
325.12406	*	9	325.12809	*	9	325.70015	*	13
325.12407	*	9	325.12810	*	9	325.70251	A	5
325.12408	*	9	325.12811	*	9	325.77102	*	6
325.12501	*	9	325.12812	*	9	325.77105	*	6
325.12502	*	9	325.12813	*	9	325.77107	*	6
325.12503	*	9	325.12814	*	9	325.77108	*	6
325.12504	*	9	325.12815	*	9	325.77109	*	6
325.12505	*	9	325.12816	*	9	325.77110	*	6
325.12506	*	9	325.12817	*	9	325.77111	*	6
325.12507	*	9	325.12818	*	9	325.77113	R	6

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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325.77115	*	6	408.30437	*	8	408.30740a	*	8
338.81	A	4	408.30443	*	8	408.30740c	R	8
338.2503	R	12	408.30445	*	8	408.30741c	*	8
338.10102	R	12	408.30447	*	8	408.30744e	*	8
338.12003	*	8	408.30448	*	8	408.30754b	*	8
339.15104	R	12	408.30448d	*	8	408.30754c	R	8
339.16004	R	12	408.30449	*	8	408.30749	*	8
339.17104	R	12	408.30451c	*	8	408.30757	*	8
388.706	*	8	408.30453	*	8	408.30758	*	8
388.710	*	8	408.30457	*	8	408.30759a	R	8
400.5103	*	7	408.30458	*	8	408.30759b	R	8
408.4031	*	4	408.30461	A	8	408.30760	R	8
408.4038	*	4	408.30475	*	8	408.30761c	R	8
408.30401	*	8	408.30476	*	8	408.30785	*	8
408.30402	*	8	408.30495	A	8	408.30786	*	8
408.30404	*	8	408.30497	A	8	408.30791	*	8
408.30405	*	8	408.30499	*	8	408.30793	R	8
408.30406	*	8	408.30499a	R	8	408.30795	R	8
408.30408	*	8	408.30501	A	8	408.30795a	R	8
408.30409	*	8	408.30538	A	8	408.30796	R	8
408.30410	*	8	408.30701	*	8	408.30901a	*	8
408.30411	*	8	408.30711	*	8	408.30902a	*	8
408.30412	*	8	408.30712	R	8	408.30903a	R	8
408.30415a	*	8	408.30713	R	8	408.30904a	*	8
408.30427	*	8	408.30714	*	8	408.30905a	*	8
408.30427a	R	8	408.30715	*	8	408.30906a	*	8
408.30427b	R	8	408.30716	*	8	408.30907a	*	8
408.30427c	R	8	408.30717	*	8	408.30908a	*	8
408.30427d	R	8	408.30718	*	8	408.30909a	*	8
408.30427e	R	8	408.30719	*	8	408.30910a	*	8
408.30429	*	8	408.30720	*	8	408.30915a	*	8
408.30430	*	8	408.30728	*	8	408.30916a	R	8

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

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408.30923a	*	8	560.402	*	2
408.30924a	R	8	560.403	*	2
408.30928a	*	8	560.404	*	2
408.30935a	*	8	560.405	*	2
408.30936a	*	8	560.406	A	2
408.30940a	R	8	560.407	A	2
408.30995a	*	8	560.408	A	2
418.10107	*	8	560.409	A	2
418.10108	*	8	560.410	A	2
418.10207	*	8	560.411	A	2
418.10404	*	8	560.412	A	2
418.101501	*	8	560.413	A	2
421.112	*	2	560.414	A	2
421.162	*	2	560.415	A	2
421.205	*	2	560.416	A	2
421.208	*	2	560.417	A	2
421.210	*	2	560.418	A	2
421.216	*	2	560.419	A	2
421.269	A	2	560.420	A	2
421.270	*	2	560.421	A	2
436.1527	*	7	560.422	A	2
451.2303	R	12	560.423	A	2
451.2304	R	12	560.424	A	2
460.2135	R	14	560.425	A	2
460.2601	A	14	560.426	A	2
460.2602	A	14	560.427	A	2
460.2621	A	14	560.428	A	2
460.2622	A	14			
460.2623	A	14			
460.2624	A	14			
460.2625	A	14			
460.20606	*	5			

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



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